

Scottish Child Abuse Inquiry

Witness Statement of

Michael SPENS

1. My name is Michael Colin Barkley Spens. My date of birth is [REDACTED] 1950. My contact details are known to the Inquiry.

Background

2. I am a graduate of Cambridge University and I have a degree in Natural Sciences. I was employed at Radley College, Oxfordshire from 1974 to 1993 as a teacher of Geology and Chemistry and latterly as a Housemaster. I then went on to be Headmaster of Caldicott School, Bucks, from 1993 to 1998. I was Headmaster of Fettes College, Edinburgh, from 1998 to 2017. I have worked as an Education Consultant from 2017 to the present day.

Employment with the school

3. When I was Headmaster of Fettes College, from August 1998 to July 2017, I had responsibility for the management of the school and was accountable to the Governors of the Fettes Trust.
4. I was employed in the usual manner, having responded to the advertised post. I was interviewed twice, then references were taken up and appropriate pre-employment checks were made. However, as you will understand, I was not privy to the details of my recruitment. The details of the process will be on file at Fettes College.
5. As the senior member of staff at the College, I was accountable to the Board of Governors of the Fettes Trust. I had regular contact with the Board and in particular

with the Chairman, who was available at any time if required. I reported to the full Board four times during each year, and to the Executive Committee of the Board once a month. I was formally appraised on two occasions during my tenure.

6. Appropriate training was provided by the school as necessary. Generally, external training would be under the auspices of the Headmasters' and Headmistresses' Conference (HMC), my professional body. Safeguarding training and monitoring of my knowledge and understanding of safeguarding requirements was mandatory, for me and for all members of staff, on an annual basis, or more frequently if required.

Policy

7. As Headmaster, I was centrally involved in and responsible for policy in relation to the care, including residential care, of children.
8. Throughout my tenure as Headmaster of Fettes College, which is a boarding school looking after children from a young age (as young as eight years old in the Preparatory School), the care and welfare of the young people in our care was of paramount importance. The system of pastoral care within the school was based on national, UK-wide as well as Scottish, standards and requirements. These protocols were taken as being minimum standards and Fettes took great pride in the standard of its pastoral care, which has been described as sector leading in recent years.
9. That said, national minimum standards and requirements changed and evolved during the nineteen years of my tenure, and our procedures were undoubtedly more comprehensive and robust at the end of my time than when I started in post. At various points during that time new guidance and initiatives were introduced. These would have included inter alia the introduction of GIRFEC (Getting It Right For Every Child) in Scotland, and the successive iterations of KCSIE (Keeping Children Safe In Education) in England. We always responded to those and incorporated them into our procedures and training.

10. 'Safer Recruitment' principles were incorporated into our procedures for the recruitment of staff, all of whom would be subject to statutory clearance against List 99, as it was, or through Disclosure Scotland and the Disclosure and Barring Service (DBS) service in England. That applied to all members of staff, including those from overseas, who in the course of their respective roles would have close and unsupervised access to children.
11. Safer recruitment principles are issued by a variety of different bodies, including by the Care Commission in Scotland. Details of the safer recruitment principles provided by the Care Commission are available on the Care Commission website. That is the authority I would have been most likely to consult, but, in my role as a recruiter of staff to the school, I adopted best practice principles and would have looked at different sources also to get a wider perspective. Safer recruitment principles are UK- and Scotland-wide. They were introduced into Fettes when they initially became available on the Care Commission website. Safeguarding and Child Protection training was mandatory for all members of staff. Staff were appraised on a regular (biennial or triennial) basis.
12. Complaints policies and procedures, including for whistle-blowing, were introduced, if they had not existed before, and were clearly explained and documented. Protocols for the discipline and punishment of children were clearly set out in staff and pupil handbooks, and formed an integral part of staff induction and training.
13. The systems for record keeping developed and improved over time, evolving from hand-written or typed notes kept in a filing cabinet, to a bespoke pastoral care database held securely within the school's IT network that brought together all records and information relating to the care and welfare of individual pupils. I am not in a position to give a precise date of the introduction of the database and this would have to be checked with Fettes itself.
14. In any event, the database was an evolving system over my time at Fettes. When I first started to work at Fettes there were only four computers in the school and electronic databases were very limited, and generally in their infancy for schools: by

the time I demitted my role as Headmaster, the pastoral database had become very sophisticated.

Strategic planning

15. As Headmaster, I was centrally involved in strategic planning for the school. The school's development plan was re-visited and updated annually. The care and welfare of pupils was a major item on the development plan. The plan was definitely promulgated to Governors and all teaching staff and some members of support staff. The Inquiry would have to refer to Fettes in order to ascertain whether the circulation went any wider than that,
16. Our procedures, protocols and general approach to the pastoral care of all members of the school community, and of the pupils in particular, was constantly monitored and reviewed. It was important that this was seen as a whole school responsibility and that all members of the staff appreciated that each and every one was involved in discharging that responsibility. Hence, the prominence of this item on successive development plans.
17. I am not in a position to add more detail as I retired from my position as Headmaster in July 2017 and I have had no access to files and records held by the school since that time. Copies of past school development plans should be available from Fettes College.

Other staff

18. As Headmaster, I was responsible for all members of the staff and they all ultimately reported to me, either directly or through members of the senior or middle management. The staff reporting directly to me were the members of the Senior Management Team: Deputy Head, Bursar, Headmaster of the Preparatory School, Assistant Head(s), Head of Pastoral Care, Director of Studies, Director of Teaching

and Learning, Director of Digital Strategy, Director of Sport and the Director of Marketing.

19. The Chaplain also reported directly to me and he and I would meet regularly, typically once a week or more frequently if necessary. The Housemasters and Housemistresses reported through the Head of Pastoral Care and the Deputy Head, but they all had direct access to me at any time if any major pastoral or disciplinary incident were to occur.

Recruitment of staff

20. As Headmaster, I was involved in the recruitment of all members of the teaching staff and some members of the support staff.
21. I have considerable experience of the recruitment of staff. I was a Headmaster, in two different schools, for twenty-four years and I now work as an Education Consultant, which involves me in the recruitment and appointment of staff. I would describe my knowledge of recruitment policy and practices as extensive.
22. During my tenure as Headmaster, references were always sought for members of staff who were being considered for appointment to the College. Three referees were required for each applicant for a post at the school, one of those referees being the applicant's current, or most recent employer. Those references were expected to be thorough and comprehensive. If it were felt that a reference contained insufficient depth, it would be followed up by a phone call. In all cases referees were required to confirm that they knew of no reason why the subject of the reference should not be employed in a situation where they would or might have unsupervised access to children and young people.
23. As indicated above, the practice throughout my time as Headmaster was to speak to referees as and when there was a perceived need to flesh out more fully the detail of a reference. I would almost always speak to the Head of an applicant's current school (if they were currently employed in a school) before appointing them. In more

recent years, with the adoption of 'Safer Recruitment' procedures, all references would be authenticated by a phone call to the referee.

Training of staff

24. I was involved in the training and personal development of staff. All members of staff received induction and training when they first joined the school. The induction programme was organised and administered by a dedicated senior member of staff and would cover all aspects of the organisation and running of the school. I would contribute to that training programme by conducting an initial session. Staff induction at all times during my tenure included child protection training. The depth and focus of the safeguarding training developed over time.
25. As stated above, safeguarding training and monitoring took place on a continuous basis. Further staff training was provided through termly staff meetings. All members of the teaching staff were subject to a formal process of Review and Development, which took place biennially or triennially dependent upon the experience of the member of staff concerned.

Supervision/staff appraisal / staff evaluation

26. I was involved in supervision, appraisal and evaluation of staff. As stated above, all members of the teaching staff were subject to a formal process of Review and Development, which took place biennially or triennially dependent upon the experience of the member of staff concerned. The details of the process can be obtained from the College.
27. In essence, the Line Manager of the member of staff concerned would conduct a thorough process of appraisal of that person's performance through a mixture of observation and collating reports and comments from colleagues. This would lead to an in-depth discussion with the staff member following which the Line Manager would write a report that would be agreed with the member of staff and then

submitted to me. I would then hold an extended meeting with the member of staff to discuss their current performance, any issues that may have arisen from the process, and look at plans for future development.

Living arrangements

28. I lived in the Headmaster's Lodge, which is integral to the main building of Fettes College. I was therefore living on site and in close proximity to the pupils.
29. The remainder of the staff were divided between those who lived on the school site and those who lived outside the grounds of the College. Those who lived on the school grounds largely comprised resident House Staff, who lived within the boarding accommodation (Houses) of the pupils, and a few members of staff who lived in houses on the College grounds at some remove from the boarding Houses.
30. The House Staff in an individual boarding House typically comprised a Housemaster/Housemistress, a Resident Tutor and a House Matron. Some but not all of the House Staff would be married and have spouses, partners and, in some cases, families living with them.
31. Access to the children's residential areas was restricted and under the control of the Housemaster/Housemistress. The houses all have number coded access doors or fob access doors. As I was leaving the school all entry doors had been changed to fob access only and different access was granted for different people. There would be a record of who opened a door at any given time.
32. Those who would have regular access would be the Housemaster/Housemistress, the Matron, the Resident Tutor and the visiting duty Tutor. Any other visitors to the House would be at the behest of the Housemaster/Housemistress who would not only be aware of the visit but would also accompany any visitor who was not a bona fide member of staff visiting on school business.

Culture within Fettes College

33. The culture at Fettes during my tenure was to create and maintain a safe and secure boarding environment based on strong family values within which pupils were encouraged and supported to aspire to be the best that they could be.
34. Fagging did not exist, the practice having been abolished by one of my predecessors.

Discipline and punishment

35. The discipline and punishment of children was a matter for the staff. The School Rules were well known and published in a document for staff, children and parents. Infringements of the School Rules would be dealt with at different levels depending upon the seriousness of the breach. More routine and minor matters would be dealt with by teachers; more serious matters would be handled at House level (i.e. by the Housemaster/Housemistress) or at Deputy Head level. The most serious matters would be handled by the Headmaster.
36. As indicated above, the School Rules and the nature of sanctions applied for breaches of the School Rules were among the school's policy documents.
37. These policies were available to all. Staff and children would be informed about them when they joined the school. The policies were applied openly, and the strongest efforts were made to apply sanctions proportionately and fairly. Records of punishments were kept in the pupils' files and, for more serious breaches of the rules, in central school records.
38. Senior pupils, House Prefects and School Prefects, assisted with school discipline in a supervisory capacity. For instance, prefects would be on duty in areas such as Chapel and the Dining Hall, where the school body would congregate, to ensure good order and behaviour. Senior pupils had very limited ability to discipline fellow

pupils and the sanctions they could apply were similarly restricted: for instance, a Prefect could require a pupil to write lines.

39. In practice, Prefects were trained and encouraged to engage with other pupils and achieve desired outcomes through reasoned argument. If this process of engagement with other pupils was unsuccessful, or whenever a Prefect felt that a stronger sanction was necessary, the matter would be referred to a member of staff. Training was given to Prefects and a programme of leadership training for newly appointed Prefects was in place from my first year at the school.
40. The programme was led by senior members of the staff, latterly by the Deputy Head, and I was also involved in it. Further details of the programme should be sought from Fettes itself. The programme of training would develop and evolve every year to incorporate new ideas and lessons learned from experience. We did not expect young men and women to become Prefects without first undertaking an appropriate programme of training.

Day to day running of the school.

41. As Headmaster, I was, of course, involved in the day to day running of the school. In practice, the responsibility for the day to day running of the school was devolved to the Deputy Head, whose remit it was to ensure that the school ran smoothly, efficiently and, above all, happily. The Deputy Head reported directly to me.
42. Looking back on my time at Fettes, I am as confident as I can be that any incident of a child being abused or ill-treated would have come to light contemporaneously.
43. I am confident in saying that because the systems, procedures and protocols that were in place were designed to ensure that abuse or ill-treatment of a pupil could not go undetected. Because those systems improved and became increasingly robust during my time at the school, I would feel greatest confidence in my stated position in relation to my latter years in post.

44. Notwithstanding the above, I am, and was during my time as Headmaster, conscious that no system, however well-constructed, is completely infallible. One of the most intractable difficulties associated with the care and welfare of children arises when an individual who might be suffering abuse or ill-treatment does not tell anyone about it.
45. As a school community we worked very hard to overcome this inhibition and encourage children to trust and speak openly to those charged with their pastoral care. We also stressed to staff and pupils alike the importance of being vigilant in looking out for any signs that an individual might be suffering from any form of abuse or ill-treatment. However, despite our very best efforts, it would be unrealistic to imagine that we were one hundred percent successful in achieving this.

Concerns about the school

46. As far as I am aware, there were no concerns raised about the school per se, but inevitably over the years there were occasions when concerns were raised about how a particular individual or individuals had been treated. Such occasions were not frequent but, when they occurred, they were dealt with appropriately. I cannot give specific examples, but the majority of incidents would come from unpleasant peer on peer behaviour. Bullying behaviour was infrequent and out of the norm in Fettes. The school has a robust anti-bullying policy. As and when bullying behaviour was identified, firm action was taken, which could in the most serious instances lead to the culprit being excluded from the school.
47. I retired from Fettes in 2017 and I no longer have access to files or other records. I am therefore not able to provide details of the concerns or whether the parents of the children were made aware of concerns. Such information should be sought from Fettes College.

Reporting of complaints/concerns

48. The school's policy documentation included a Complaints Policy, which was available for use by pupils, staff or parents. All of the pupils at Fettes, when they join, are given very clear information about where and to whom they can go to for support and about how to address any complaints or concerns. This information was reinforced throughout a child's career at the school.
49. Parents have the same access in the sense that they all received a Parents' handbook and this contained all the relevant information. As with so much here, further details can be sought from Fettes. Every pupil had a Tutor or a Housemistress/Housemaster and if they had any concerns about any matter they were urged to seek help and support from these staff members in the first instance.
50. Details of the Complaints Policy and any record of complaints should be obtained from Fettes College. As intimated above, I no longer have access to such documentation.

Trusted adult/confidante

51. The pastoral care system at Fettes had at its core a network of people to whom a pupil could talk if they had any concerns of any nature at all. This network included teachers, tutors, House staff and senior management. There were also designated independent and outside listeners, such as the Chaplain, and pupils had access to an independent counsellor.
52. When a pupil first joined the school, they were told that, as part of the system of pastoral care, in addition to their Tutor or Housemaster/Housemistress, they could also speak confidentially to an independent counsellor. This person was not a staff member, but was employed by the school. They were independent in that the pupil could see the counsellor at will and without telling anyone in the school they were doing it. The counsellor was based in the school medical centre and their work was governed by normal patient confidentiality. There was one counsellor at any one

time. There are also outside bodies that could be contacted by pupils. The obvious example of that would be Childline and their details were given throughout the school. All pupils had the ability to contact them.

53. The pastoral care system and the support network within the school was clearly explained to pupils and they were encouraged to use it at any time they had concerns. Again, as referenced earlier, the nature and quality of the system of pastoral care evolved over time. I felt that the structure was robust throughout my tenure, and very strong at the time of my retirement.
54. Children within the school did make use of the pastoral care system to express concerns.

Abuse

55. The school had a definition of "abuse" that it applied in relation to the treatment of children at the school. However, a precise and accurate answer to the question should be sought from Fettes College.
56. My understanding of the term abuse, in relation to the treatment of a child or young person, would include, in addition to any form of physical or verbal attack, any behaviour that made an individual feel uncomfortable, unhappy, unsafe, threatened, disrespected, excluded or discriminated against.
57. The staff handbook and staff training sessions were explicit in terms of what was and was not permitted and acceptable in relation to the treatment of children and young people. All teachers were made aware of this during their induction training and this information was reinforced throughout their career. The staff handbook contains many of the school's policy documents: teachers had access to all of the school's policy documents as they were all available on the school's IT network.
58. Information on dates of the introduction of the definition of abuse should be sought from Fettes. Further to that I would reiterate that information contained within the

staff handbook and the training given to staff, including that in relation to the treatment of children, evolved and became more comprehensive over time.

Child protection arrangements

59. As indicated earlier in my statement, Safeguarding training and Child Protection training was an integral and mandatory part of the training received by all members of the staff at Fettes. That was in place throughout my time. The depth and focus of that training evolved and improved over time.
60. Child Protection training, and Safeguarding training in general is very clear and explicit about how a member of staff should react and respond to incidents or reports of abuse or of ill-treatment of children. The training given at Fettes followed legal requirements and guidance from relevant national bodies.
61. Child Protection and Safeguarding training allows for little or no autonomy or discretion for an individual member of staff. Any staff member who became aware of any incident of abuse or ill-treatment of a pupil was required to pass that information on to the appropriate designated person or body: normally the Child Protection Officer (CPO). The CPO would then follow the procedures set out in the school's Child Protection Policy. The CPO was the Deputy Head until we created a role of Head of Pastoral Care and then s/he became the CPO. That change happened during my time at the school. The CPO was the point of contact for the school and the CPO had a team under them. The members of that team are all also members of teaching staff.
62. It is my belief that the child protection arrangements in place at Fettes were as comprehensive as we were able to make them.
63. Details of these arrangements and copies of the relevant policies should be sought from Fettes College. As to whether they worked or not, it is my hope and belief that they were effective both in preventing ill-treatment of children and in dealing with the consequences of ill-treatment should it have already taken place.

External monitoring

- 64. The school was inspected on a regular basis by the appropriate bodies, namely Education Scotland (formerly HMIE) and the Care Commission.
- 65. During inspection visits, Inspectors would speak with children, either individually, or in a group situation, or both. Pupils would also be asked to complete confidential questionnaires. Those questionnaires were prepared by the inspecting bodies. They were used throughout my time in the school as and when inspections happened. In addition, the school introduced periodic internal self-assessment and as a part of that process questionnaires would be sent to pupils and/or parents.
- 66. Staff would only be present when appropriate or at the request of the Inspectors.
- 67. The Lead Inspector would have at least one, and often two or more meetings with me during the course of the inspection.
- 68. The Inspectors usually provided verbal feedback at the end of an inspection; a full written report was published at a later date.

Record keeping

- 69. The policy at Fettes during my tenure was that records should be kept of all matters of significance relating to pupils or staff. Any matter relating to allegations of abuse or ill-treatment would certainly fall into this category. Early in my tenure these records would have been kept manually as hand-written or type-written notes, or as originals or copies of correspondence. These records would be stored in paper-based files, either centrally or with a Housemaster/Housemistress. In more recent years the school introduced a computer-based management information system (MIS) where all such records could be entered and stored. This has inevitably led to a more comprehensive and consistent level of record-keeping.

70. I inherited a system of manual record-keeping that was dependent upon the assiduousness of the record-keeper for its effectiveness. Inevitably some records were more complete than others. As a general comment, historic records would typically contain relatively little relating to reports or complaints made by an individual pupil. This is simply an observation that historical records tended to contain relatively little information over and above routine reports and would typically be considerably less comprehensive as a record of a pupil's school career than one would expect today.

Investigations into abuse – personal involvement

71. I retired from Fettes three years ago and I no longer have access to files or other records. I am therefore unable to respond definitively to a question about my involvement in any investigation into allegations of abuse or ill-treatment of children. However, I do not recall any occasion when an allegation of abuse or ill-treatment of children by a member of staff was brought to me. In any event, had such an allegation been made, I would not have investigated it myself, I would have referred it to the appropriate authorities.

Reports of abuse and civil claims

72. With regard the handling of reports to, or civil claims made against the school by former pupils, concerning historical abuse, I am unable to answer this question definitively or with accuracy in respect of names and dates. However, there were occasions on which reports of historical abuse reached me from former pupils.
73. On one such occasion (for which I cannot provide an accurate date), the Chairman of Governors and I met with a former pupil who had written to the school alleging that he was abused by a member of staff while he was at Fettes, during the 1970s I believe. That letter was passed to the Chairman of Governors and arrangements were made for the Chairman and I to meet with the former pupil. From my point of

view, I wished to take a sympathetic approach during the meeting and give the individual an opportunity to say what he wanted to us.

74. However, the meeting, which took place at the Chairman's house in Edinburgh, regrettably became more adversarial than conciliatory and evidently did not result in a satisfactory outcome from the former pupil's point of view. There was nothing further that I could do internally about the allegations as the incident had taken place several decades earlier.
75. Therefore, within a few days of that meeting, and with the Chairman's agreement, I referred the matter to the Police. I had a personal meeting with a senior officer at Lothian Police Headquarters on Fettes Avenue to seek advice on how the matter should be progressed. The result of that meeting was that the Police assumed control of the incident and I believe that an investigation was launched. I am not aware of the final outcome of that investigation.
76. Other reports that reached me related to the alleged behaviour of a previous Headmaster, whose period of office at the school was commemorated by a plaque on the wall of the College Chapel. The large majority of what I heard about the former Headmaster was anecdotal and by no means entirely negative. I recall one incident when someone who was, as I remember, a former pupil of the school wrote formally to object to the plaque in Chapel on the basis that it was inappropriate given the alleged reputation and past behaviour of the Headmaster in question. The said Headmaster, Anthony Chenevix-Trench, died some forty years ago and there was thus no question of an investigation, in the sense that we could not investigate someone who had died forty years previously and was thus in no position to defend himself.
77. However, the letter was considered very carefully and at some length by the school's Governing Board. The decision taken by the Board at that time was not to remove the plaque. I believe the Governors responded in writing to the letter and set out their reasoning for the decision. However, I believe that decision has now been reversed as a result, as I understand matters, of other information about the former

Headmaster that came to light from the detailed examination of historic files referenced below.

78. With regard to other, non-recent abuse at the College, a trawl of school files was undertaken following the establishment of the SCAI and evidence of abuse was found. I am not able to give details about that evidence, for reasons already stated. In any event, I believe that this evidence has already been submitted to the Inquiry by the school.

Police investigations/ criminal proceedings

79. I am not aware of any police investigations into alleged abuse at the school during my tenure as Headmaster. As stated above, I am aware of at least one police investigation into historical abuse. I have no information about the outcome of that police Investigation into historical abuse. However, there may be something on record at the school.

Convicted abusers

80. To the best of my knowledge, no person who worked at the school during my tenure has been convicted of the abuse of a child at the school. Nor do I have any knowledge of anyone who worked at the school prior to my tenure having been convicted of such an offence.

Helping the Inquiry

81. As I have written and implied in earlier answers, I genuinely and strongly believe that the laws that have been passed in respect of child protection, and the measures that are mandated and in place within boarding schools in relation to procedures and training of staff, have served to minimise the occurrence of abuse or ill-treatment of

children. However, no system is perfect, and it is still theoretically possible for a potentially abusive member of staff to be recruited.

82. Despite everyone's best efforts, someone could slip through the net: for example, someone could be recruited who had abusive tendencies that had not yet become apparent to anyone else. This might be a particular concern with someone who is new to the teaching profession. That is the stage at which I believe employing schools have to be at their most vigilant.
83. It is also possible that a member of staff might develop or acquire abusive tendencies after appointment. It is therefore vital that boarding schools should not be complacent about the issues around safeguarding and child protection. A constantly vigilant approach is required. I do not think there was complacency in this regard during my tenure at Fettes. However, even with a really robust system of safeguarding in place, one should never take one's eye off that particular ball.
84. All members of the staff within a boarding school should receive regular training and updates and be held to account on a regular basis by their line managers, by their Heads and by their Governors, in terms of their knowledge and practice around child protection matters. The Safeguarding member of the Governing Board has a key role to play here. Every Governing Board in every school should have a designated Safeguarding Governor. Safeguarding should also be a standing item on Governing Board agendas.
85. In addition to the above, the quality of the care and welfare of pupils within a boarding school environment should be monitored regularly by an appropriate inspecting body that has a clear understanding of how boarding schools operate. I think the current system is becoming fit for purpose, but there is scope for further progress to be made.
86. To enlarge on that last point, when the Care Commission was first tasked with the inspection of the boarding provision within schools, the level of knowledge and expertise about independent boarding schools within the Care Commission was very limited. I am sure that situation has now changed, but it bears emphasis that an

inspection regime can only be fully fit for purpose if those charged with making inspection visits possess a clear and informed understanding of the environment they are inspecting.

87. I have no objection to my witness statement being published as part of the evidence to the Inquiry. I believe the facts stated in this witness statement are true.

Signed.....


Dated.....
26 October 2020