Wednesday, 1 October 2025

(10.00 am)

LADY SMITH: Good morning, and welcome back to our hearings in Phase 9 of this case study, in which at this point we're looking into the provision of residential care for children at Donaldson's School for the Deaf.

Now, this morning, we won't be moving to witnesses -- either this morning or this afternoon, actually -- any witnesses who are themselves deaf but, as before, we will have two British Sign Language interpreters providing translation from English to British Sign Language for any deaf members of the public who are in the gallery to help them follow the proceedings, and the interpreters will be in the public gallery. They'll no doubt make themselves known to others.

There's also a British Sign Language interpreter who will be available if anybody attending would wish to use their services to enable them to speak to a member of the Inquiry team. That could be because they want to find out, say, more about our work, to ask about providing evidence to us, or for any other reasons, so do feel free to ask for help from them if that is something that anyone would like to do.

Now, we start this morning with taking evidence by

way of a video-link, a Webex link. I can see the witness is on screen and I'm going to invite Ms McMillan to introduce the evidence.

Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

The next witness is John Chalmers. Mr Chalmers held various positions on the board of governors at Donaldson's from 1987 to 2009.

LADY SMITH: Good morning.

A. Good morning.

LADY SMITH: First of all, I have what I hope is an easy question for you. How would you like me to address you? I am happy to use your first name, your second name, your professional title or anything else. Give me some guidance.

A. John. John is perfectly simple.

LADY SMITH: Thank you very much, John.

John Chalmers (sworn)

LADY SMITH: John, before I hand over to Ms McMillan, a couple of things I would like to say.

First, thank you very much for joining us over the link this morning. It's really helpful to have you doing that.

Thank you also for your detailed written evidence. It's been of enormous assistance to me to be able to

study that in advance. It is already evidence before the Inquiry, so I can assure you we're not going to go through it line by line or paragraph by paragraph, but there are some specific aspects of it we'd like to explore with you, if that's all right.

John, if at any time you want a break, please let me know. There's no problem in doing that. I know that it can be very hard work casting your mind back to events of a long time ago and dealing with any detail that we'd like to ask you about, so speak up if you want to pause for a break.

If you've got any queries at any time, do ask us. If you don't understand what we're asking or why we're asking it, that's our fault, not yours, so do say.

And, of course, if you've got any problems with the link at your end, do let us know, because we want to deal with that, if we can.

Unless you've got any questions at the moment, I'll hand over to Ms McMillan and she'll take it from there. Is that all right?

A. That's good.

LADY SMITH: Thank you.

Ms McMillan.

Questions from Ms McMillan

MS MCMILLAN: Thank you, my Lady.

Good morning, John.

Just before I ask you some questions about your statement, I would just like you to turn to the last page of that, that's page 62, and your witness statement is referenced WIT-1-000001673.

Can I ask you just to look at paragraph 247, where it says that you have no objection to your witness statement being published as part of the evidence to the Inquiry and that you believe the facts stated in this witness statement are true. We can see that you've signed that statement and that was on 12 September this year; is that correct?

A. Yes.

Q. Thank you.

Now I can turn back to the start of your statement, so back to page 1.

You tell us that you were born in 1952.

A. Correct.

Q. And that you left school and you obtained a Bachelor of Divinity degree and then became a minister of the Church of Scotland in 1979.

A. Correct.

Q. You go on to tell us that you have held various roles

within the Church of Scotland during your ministry career, before retiring in 2018, when you were 66 years old?

A. Correct, yep.

Q. Now, starting then from paragraph 5, you tell us that you came on to the board of governors of Donaldson's School for the Deaf because you were a minister of Palmerston Place Church.

So how was it you were recruited as a board member for Donaldson's?

A. Well, I think I say in the statement that the trust deed had a place on the trust for a member of the Presbytery of Edinburgh, and so I was appointed as the representative of the Presbytery of Edinburgh on the Board -- onto the board of Donaldson's.

Q. Was this something that you were happy to do?

A. Well, Donaldson's School was in my parish and, as a parish minister, I took seriously the institutions, the businesses, the neighbourhood in which the church was set, and so -- and I also had some, you know, personal reasons for being interested in how the life -- how life for people who were otherwise excluded from mainstream could be included. So it was something that I had more than a passing interest in.

Q. You go on at paragraph 8 on that page to say that you

initially had a very low-key presence on the board. Can you describe what you mean by a 'low-key presence'?

A. I think, first of all, I was a learner. You join any committee or board of any kind and you take your time to get your bearings, find out what that role is about, and there were people on the board who had a lot more experience of deaf education and the deaf world than I did. So I attended the board meetings, were on a quarterly basis and paid attention to the material that was in front of the board but, at that time, it was at that level that I was involved and not in any way in its, sort of, day-to-day running.

Q. Now, turning on to page 3 of your statement, at paragraph 11, you talk about the big debate at the time, which was the debate about the institutionalising of education for pupils with sensory deprivation or integrating them into mainstream schooling.

So you say that:

'I think I came on to the board at a time when [those discussions were] starting to come to a head.'

So what way were the discussions coming to a head?

A. The exact dates I don't have off the top of my head, but there was a report being prepared by Professor Sheila Riddell about the critical issue of whether to, or how to, move on pupils who would in the

past have been -- without much question in the past would have been sent to a national institution. In other words, blind or deaf or had some other particular difficulty, they would be institutionalised almost, sent to a residential school, resourced nationally.

And Donaldson's, in its heyday, before, sort of, Riddell -- the implementation of the Riddell recommendations, would have been a school where, for the most part, children from all over Scotland would find their way there, because that was the established method of educating and supporting deaf children.

But the move towards allowing these kids to remain within their local community and go to their own local school, with some element of support to allow them to be educated in the mainstream, was the emerging desire, and I came on to the board around about the time that that was a very live issue and the questions came to a head when the Riddell Report was published, the date of which, right now, I couldn't tell you without going back and looking at the history.

Q. At that time, when those discussions were ongoing, did you have a particular view about how the education of children should progress?

A. Yes, I think I was certainly a supporter of the concept of children with learning difficulties being integrated

in their local communities.

Q. You also talk at paragraph 12 about being aware of discussions about the modernisation of Donaldson's School.

A. Mm-hmm.

Q. So can you tell us a wee bit more about those discussions?

A. Well, already, by the time I had found my way on to the board, the governors had modernised the primary facility and they had built a swimming pool. So they -- there was already a recognition that a Victorian complex like Donaldson's wasn't an ideal layout for delivering the kind of opportunities that deaf children, especially those ones with complex needs, really required.

But it was a difficult business for us to think about how we modernised those premises, and it was a constant discussion about the way in which we could improve the facility and probably on the agenda almost every meeting.

LADY SMITH: John, I think by the time you went on to the board, in the second half of the 1980s, the primary provision had moved from Henderson Row to the site at West Coates --

A. Yes.

LADY SMITH: -- is that correct?

A. Correct, yes.
LADY SMITH: And you say they had made specific provision for that age group, but that was still on the area and within the area where this old Victorian building was having to provide for the children.
A. Yes. It was on the site, hidden from the road, because it was behind the building. It made use of the spare land behind the building. You couldn't do very much with the land in front of the building because, well, you know, planning restrictions.
MS MCMILLAN: Now, you go on in that paragraph to say that you also had to take account, at that time, of the emotional attachment that the deaf community had to Donaldson's, so how did you become aware of that emotional attachment?
A. It was everywhere you went within the deaf community. There were members of the board themselves who had either attended Donaldson's or members of their family had attended Donaldson's, and, you know, I can vaguely remember people comparing Donaldson's as a flagship to some of the other private schools in Edinburgh, where, you know, past pupils of whatever you want, Fettes or any of the other schools, if they can have their landmark flagship building, why can't the deaf community have one?

So there was a lot of attachment to it, even although, when you looked through its history, it wasn't always used as it was being used at the time we were discussing its future.

LADY SMITH: The old building at West Coates was, and indeed remains, an imposing building, a very grand, quite stunning building, so far as historical buildings are concerned, but I suppose, like all such buildings, that doesn't mean that it remained fit for education in the modern era.

A. That's -- that was the nub of the argument. The fabulous Playfair building. The deaf community was deeply associated with it, and maybe it was too close to it to do the close-up analysis of whether it was just an emotional attachment, rather than an attachment which took account of the challenges for education that the building presented.

MS MCMILLAN: Now, moving on, then, in your statement to page 4, at paragraph 14, you tell us that you became the vice-chair of the board of Donaldson's around the mid '90s and that you took over as chairman of the board in 1998.

How did you come to be elected into these positions on the board?

A. Well, by that time, I had become a fairly regular face.

I had taken an interest in some of the finer points of what -- of the challenges that the board was facing. I wasn't as -- you know, I wasn't one of the silent members of the board around the table. I contributed to the discussions about policy and about the future. I've always had a particular interest in the way in which we relate to the buildings we use, so I was acutely aware -- I mean, in the life of the church, I've always looked at church buildings and thought: yeah, I can see why you built this like this in the Victorian era, but what are we going to do with it now to make it a relevant space for using today? I was always interested in that kind of thing anyway. So maybe I was identified as somebody who knew what some of the issues were and would be able to contribute positively.

LADY SMITH: Who asked you to become chair -- vice-chair, sorry?

A. Hmm, I would -- if I'm really honest with you, I can't remember exactly. Most likely Ivor Guild himself, who was chair at the time, and probably alongside the clerk at the time, they would be the two people who would have had a discussion with me about that.

LADY SMITH: Yes.

Can you tell us what Ivor Guild's style of chairmanship was?

A. Yeah, I mean, Ivor was a very proper individual, well organised, liked everything to be in its place, was a tidy legal mind, liked to work through the agenda systematically.

I don't know very much about his style or his relationships outside of the boardroom, you know, with the teaching staff or the principal.

He could be and might have been a little aloof at times, but was always well-informed and, you know, fully aware of what was on the agenda and what was in the papers in front of him.

LADY SMITH: Would it be fair to say he was a generation older than you; would that be right? There or thereabouts?

A. Yes. Yeah. Oh, yes, and very much a part of a particular generation of legal style.

LADY SMITH: Yes. And didn't have any children himself?

A. I -- not that I'm aware of. I don't think he was -- I don't think he'd ever been married --

LADY SMITH: No.

A. -- and I wasn't aware of any children. He -- yeah, I didn't really know him that well. I knew him a little bit because he was very committed to St Mary's Cathedral, and Palmerston Place Church, where I was a minister, had a very close relationship with the

cathedral, and in that way -- that's probably the only other time I would have met him outside of the context of the boardroom.

LADY SMITH: Yes, so that would be the St Mary's Cathedral that's also in Palmerston Place, the Episcopal Church cathedral?

A. Yeah. Yeah. The cathedral, yep.

LADY SMITH: Thank you.

Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

Now, moving on to paragraph 17 on that page, you say that there were no prerequisites for the role, other than that you were a member of the Presbytery of Edinburgh and had a place on the board.

Did you receive any training when you were appointed to the board?

A. I wouldn't describe myself as having received any formal training, no. I don't think that would, however, be unique in the period of time we're talking about.

Q. Were you given any indication of what your role as a board member would involve?

A. Yeah -- well, I suppose in informal discussions with the clerk to the board, that would be about the sum and substance of it.

Q. And then you say, towards the end of that paragraph,

that you know that during your time, you started to look to fill certain roles, but you do not remember advertising for them.

Are you able to tell us how you then recruited other people to the board of governors?

A. Yeah, I think I'd try to describe that, probably -- it was a common pattern in -- still in those days, in the late '90s, that you asked around the table -- you know, the table itself was kind of made up of people who came from different areas of interest and expertise, and did they know of others who had particular interests in wherever area we were short -- residential care or, you know, fiscal property, all these sorts of things -- and you relied on word of mouth to alight on appropriate people.

I know that, you know, for instance, we did often look to, you know, people who had been involved, for instance, in the generation of the Riddell Report, who obviously had a background in understanding education for people with disability.

So we relied on word of mouth, on making contacts and, in that way, finding the kind of people we needed at the time to populate the board. It would come much later that trustees would be recruited by some sort of more open process.

Q. You mention at paragraph 19 that you do recall the board instituting some elements of understanding the role of being a trustee, and understanding the operation of the various aspects of the institution. How did you go about that?

A. Well, what I'm recalling at that time is, depending on the trust lawyers, who were not just the clerks to our own trust but were working in the whole world of trustee law at that time and trustee practice, so as things were becoming more formalised, we would depend on them to either provide direct training or to find others who could perhaps provide us with expertise in one or another particular field.

But, if I'm honest with you, in those early days, you know, thinking of the '90s, not a great deal of our time was spent on trustee training.

Q. Now, moving on again in your statement to --

A. I'd add to that just that, you know, there was a general assumption around -- and maybe it was the wrong assumption -- that those people we were bringing on to the board were themselves people who already had a knowledge of what it was that they were -- what was expected of them, and they were certainly all given a copy of the constitution and given an opportunity to spend time with either the chairman or the clerk to

familiarise themselves with the constitution and to, yeah, ask any questions that they might have had in relation to the printed constitution.

LADY SMITH: John, did the school become a member of the Scottish Council of Independent Schools?

A. Yes, it did, but -- and it did in -- I can't tell you the date, but I remember frequently attending meetings of SCIS and, through SCIS, opportunities for training of board members and of staff. It was in Janet Allan's time that we became members of SCIS.

LADY SMITH: Yes.

And I think I'm right in saying that SCIS would regularly provide relevant guidance to schools in relation to many things, including governance --

A. Yes.

LADY SMITH: -- and governors' duties; is that correct?

A. Yeah, and it was the membership of SCIS -- or, from my perspective, looking back, it was -- that was the moment when I think that the role of governors and the understanding of trusteeship moved -- the dial moved quite significantly at that point.

LADY SMITH: Thank you.

MS MCMILLAN: Now, turning on in your statement to paragraph 21, you indicate that there was no supervision of the role of chairman of the board at Donaldson's.

So if there was any feedback about how you were as a chairman, how would that be received?

A. I mean, what I think I'm saying there is there was certainly no formal process by which the chair was assessed or appraised. The opportunity, in my time, certainly, for any kind of appraisal was probably what you put in place for yourself, ensuring that there was some sort of small group of either the convenors of committees, together with senior staff, looking back over the agenda of the last few meetings and trying to assess for ourselves whether we had covered the ground as appropriately as we should.

But from the point of view of having, you know, an outside objective, some sort of -- I don't know what you would call them -- counsellor, individual who sat with you in order to review your work and your input, there was nothing formal like that.

Q. Now, you continue in that paragraph to talk about the appointment of a principal for a place like Donaldson's, and you indicate that it's done in the light of the challenges being faced at that moment.

You go on to say that:

'The deaf community would always have expected that the college would be managed at a senior level by people who were fluent in sign language at the very least, if not

deaf themselves.'

Now, we know at that point, I think, you appointed Janet Allan. Why did you not appoint someone who was fluent in sign language or perhaps from the deaf community at that time?

A. I think at that time we were facing particular challenges. I can't speak for when other principals were appointed, but at that time we were facing the challenge of addressing the criticisms that had been made of the school by HMI and by ELRIS, and so we knew exactly what kind of reforms were required, we knew by that time what areas of weakness had to be addressed, and we were quite specific that we were going to find somebody who would address those issues with us.

And so at that point, when you look at the characteristics that you would have said were essential for the job and the characteristics that were desirable for the job, we probably knew at that time we wouldn't get someone who would have every desirable quality, but we had to cover the essential ones, and that meant appointing somebody whose -- even whose second language wasn't BSL, but we were prepared to take any criticism there might be for that because we were covering bases that the school had to cover, or else it wouldn't have been there for the future.

Q. Did you, as a board, find it to be a hard decision to appoint someone who maybe didn't necessarily have those communication skills for deaf children?

A. I don't think we found it hard. I think we knew that there would be criticism that might be hard to answer, because not always -- people don't always hear what you actually have in mind at a particular time.

Q. Now, you move on in your statement, on page 6, in particular at paragraph 28, to talk about the interaction between yourself, the board and really the school. And I think you say that you were invited to special events, concerts, end-of-term services, sports days.

How often, in the academic year prior to becoming chairman, would you have been in the school?

A. Erm, I think I was a pretty faithful attender at events to which we were invited, and these would be the school sports days, the end-of-term services, maybe special visits that people were making to the school, when the great and the good were invited and the board members were expected to be there. I would be one of the ones who would be pretty faithful in attending these things.

But, you know, if you're talking about dropping in uninvited or making arrangements to meet some of the teachers informally, then I didn't do that kind of

thing.

LADY SMITH: What about one-to-one sessions with the principal, did you arrange those? And I'm not talking about formal appraisal, just catch-ups.

A. Yeah, I mean, I did that once I became chairman.

LADY SMITH: Right.

A. That was -- I think that's when my involvement stepped up quite significantly.

LADY SMITH: Yes.

A. It would be -- sometimes, especially when we were trying to turn the ship around, it would be almost on a daily basis.

LADY SMITH: Thank you.

MS MCMILLAN: Now, at page 7, at paragraph 29, you go on to say that:

'A big miss would be the fact that [the] governors were never required to learn even some rudimentary sign language, so it was always a very limited connection that the governors had with the [children].'

And at the bottom of that paragraph, you say that the governors that could speak sign language, they were effectively regarded as the ones that had more of a finger on the pulse.

So did you feel at times that, because of your lack of understanding or skills in BSL, that you didn't have

a finger on the pulse?

A. I wouldn't say that of myself, to be honest. I wish I had been able to converse directly with pupils but, like many of the people probably in this hearing today are depending on interpreters, then I got used to working with interpreters at my side or at the board meeting. I got to know the interpreting community quite well.

So from the point of view of never being short of someone standing beside me, then I wouldn't have said that I was one of those who was deprived of the opportunity to have my finger on the pulse.

Q. You go on in this page to talk about the culture of Donaldson's School, and at paragraph 31 you say that, on top of the changes effectively being made, that the legislation was moving you to change as well.

You go on to say:

'If I compare what Donaldson's was to the legislation which was in place at the time, then I don't think it would have been regarded as out of the ordinary.'

You then say:

'Was it as good as [what you] expect in 2025? Of course it was not, but you don't want to libel people who took on serious responsibilities and were very

generous with their time in order to help.'

So this is obviously a clear period of change for Donaldson's. Did you feel that the board were recognised for their work in giving up their time and taking on those responsibilities?

A. I'm not sure what you mean by the board being recognised for it. I don't think anybody took on the responsibilities that were associated with the board at Donaldson's because they were looking for some kind of recognition. I think that people knew there was a -- it was a time of significant change in the way that children with special needs were being regarded and the opportunities they needed to have, and I think people were -- you know, I think they were taking that very seriously, but they were doing it within a culture that wasn't always ready for the kind of change that was needed.

Q. And is this what you then mean by you don't want to libel people who took on serious responsibilities and were very generous with their time?

A. Yeah. I mean, they were serious people tackling the business of change, which is never easy in any organisation. And they were serious people tackling the business of changing a culture, which was quite embedded. And by culture, I don't mean necessarily just

the culture of the school, which in and of itself was a challenge, but the culture of the deaf community across Scotland.

And so, you know, being a hearing person in that world, and trying to be one of the people who listens sensitively, but then yet has to make difficult choices about the future, then I think, erm -- I think that these people gave their best at a difficult time, you know, and that's why I wouldn't -- you know, I could criticise them for getting some of those decisions wrong; I could criticise them, perhaps, for disagreeing with me; but would I libel them because we were having a healthy debate and discussion about direction? No, I wouldn't libel them for that.

Q. Turning to the next page of your statement, at paragraph 32 you talk about the building, and I think we have touched on the building this morning. But you mention in that paragraph that it wasn't enough not to use the spaces -- so this is in reference to the bathrooms which are not fully fit for purpose -- but you say:

'They had to be ripped out in order to demonstrate that the world had changed and was changing.'

Can you explain what you meant by that?

A. Well, I would be clear that these bathrooms with

multiple baths in them, pink for the girls and the blue for the boys, were never used in my time. They were just big, horrible spaces. But they seemed to be something like -- and this is, you know, an impression -- they seemed to be something like a symbol of where the building had been and of what kind of purpose was -- and if you were going to convince people that Donaldson's, the building, was ever going to be a suitable environment for young kids to be cared for residentially and catered for educationally, then you had to -- you couldn't just padlock the door of these places and forget about them; you had to physically change them, you had to -- and that was like a physical statement of an emotional, intellectual move from the past into the future.

So, yeah, you could have simply boarded these rooms up and forgotten about them and saved a lot of money -- because we didn't need the space; there was plenty of space without them -- but you actually had to take them out, put them in a skip and say, 'That's the past, we're moving forward'.

Q. Now, you go on to talk about the move and we have heard that Donaldson's ultimately moved from the campus at West Coates to Linlithgow.

At paragraph 34, you talk about the prospect of

moving campus, and you say that you had appointed senior people to senior roles and trusted that they were managing the day-to-day affairs of the school, such as educational, pastoral and social matters.

So while the board was perhaps dealing with the business side of the move, was it your understanding that you had people that were dealing with the continued education for the children?

A. We had people, both on the staff and on the board by that time, who were supervising that. The whole board was not involved in the day-to-day management of the move. By this time, we had members of the board who -- you could probably describe them as being more interested in -- and rightly -- more interested in the delivery of the educational, pastoral and social needs of the community of the school, while we did have both professional expertise and governors who were particularly interested in the move to the new physical environment. We were covering all of those bases by that time.

LADY SMITH: John, I see at the beginning of that paragraph, you refer to the protest meetings and letters to the press when it became known that there were plans to move campus, and the difficulties and challenges of dealing with that.

Had the board anticipated that there would be such negative and very public reaction?

A. Yes. Yes. I mean, the board were well aware of the attachment of the deaf community, as I said earlier, to their flagship building and, you know, first of all, there were some concessions being made around: well, if you're going to move, you'd better move within Edinburgh, don't take us out of the capital. That's just -- that was just one aspect of it. And we looked at sites within Edinburgh and, you know, once you look at everything, from the cost to the possibility of providing all that you wanted to provide, Edinburgh was ruled out.

So that was another aspect of the difficulty; telling people that, actually, we're not -- we're going out of the capital as well.

So, you know, some people -- not all, by far not all, but some people in the deaf community -- felt, 'So you're just going to hide us round the corner now, are you?'. You know, it's like the business of, if you're going to provide a building with disabled access, don't stick it round the back; make it the same entrance as everybody else uses.

And so to some extent -- I'm trying to explain just what some of the deaf community felt about that.

LADY SMITH: Yes. But what about the time that it took just to deal with this opposition? Was it very time-consuming for the board?

A. No, I mean, it's the kind of thing that every institution that has to make a big change has to factor in. So you had to have opportunities for public meeting, you had to let people sound off, and you had to try your best to take on board their views, and you had also to try your best to explain, while we understood and sympathised with their objections, there was a greater good that had to be met.

LADY SMITH: You go on and say:

'The board were handling that stuff [no doubt everything that was involved in this strong opposition] and you may say now that the board should have been far more aware of the possibility there were children in the heart of this who might be exposed to abuse.'

What is it that you're telling me there? Do you see that?

A. Yeah, I think -- yeah, I do. Yeah.

I mean, I think, when I look at that paragraph now in cold print, that response must have been in relation to a particular question that was put to me by the team, you know, who were asking me, I think, 'While you were doing all this stuff, moving the campus, did you take

your eye off the ball?' And I think I was trying to say, 'Well, you know, you could look back and you could probably make a case that we were so involved in a big practical matter that we weren't paying attention to our core function. So you can see why we could be accused of that'.

LADY SMITH: Yes.

A. I'd like to think that we were responsible enough not to be doing that, and that we're a team of people who were responsible for the move, who reported to the board on a regular basis and who, once the big decision was made in principle, got on with that job while the agenda for the board continued to have -- it wasn't dominated by simply this one big issue, the big move.

LADY SMITH: But in any event, on a day-to-day basis, a board of governors such as yours has to rely on having good staff responsible for engaging on a daily basis with the children --

A. Yep.

LADY SMITH: -- and alerting the board to anything that might point to there being a problem, for example, the problem being that children are being abused.

A. Yeah.

LADY SMITH: Yes.

A. And by that time, by the time we were in the middle of

the whole 'Let's move from here', the decision was made in principle to move, I think by that time, we had a board that was operating as well as it had ever operated --

LADY SMITH: Yes. Thank you.

A. -- across the board, and we had a staff that we believed were looking out for the children.

LADY SMITH: Thank you.

Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

Now, turning on in your statement, John, to paragraph 40, you talk about having recollections of fairly good reports; or that's what the board were told.

At the bottom of that paragraph, you say: 'It was the ELRIS report that rang alarm bells with the board of governors. [So] any previous reports must have been okay because they didn't ring alarm bells.'

Can you remember any previous reports before ELRIS being discussed by the board?

A. To be honest, only very vaguely. I don't remember details. And, of course, the whole inspection regime was changing at that time, so that I don't think that in any school that had a residential care facility, that there was as close attention being paid to the care side of institutional life, as is the case now, or as was

emerging at that time.

But if you're asking me for my recollection of previous HMIE reports, then I -- it's so long ago, I really don't remember the detail.

Q. You go on at paragraph 41 to talk briefly about the response, I guess, to the ELRIS report and say:

'It was a case of either addressing the difficulties not just one by one but simultaneously, or the place would shut.'

And you say that this was when you began to have regular meetings, week on week, to see if these matters were being addressed.

So, from that, when that report, I guess, dropped on your desks, how did your role change?

A. Well, when that report dropped on our desk, that's when I became the chair. It was -- I mean, I don't have perfect recollection of the day-by-day, step-by-step timetable, but I became the chair right at the point at which there had to be steps taken to address each of the criticisms that arose in the ELRIS report and, as I've said here, it would have been a luxury if you had been able to say, 'Well, we could tackle these one by one, we can deal with X this month', and then we'll put all our -- the criticism was across the board and we had to find a way of -- what's the word? My mind's gone blank,

but we had to find a way of simultaneously addressing all these issues.

Q. When you became chair at that point, we've heard a bit about how -- Ivor Guild and his management style. What was it you did in your management style as chair at this point?

A. Yeah. Well, as I said here, I think my leadership style has always been to try and support people in the tasks that they have to do. I'm not a dictator, I'm a team player, but I think it was pretty obvious at the time that, for one reason or another, the school had fallen short on its standards and these issues had to be addressed, and that whoever was willing to take on the role of chairman would have to be involved on a day-to-day and week-to-week business overseeing the policy implementation and the policy changes that were required.

And so, for a while, when we appointed the new principal and she needed out and out support to get the job done, then I was a regular feature of listening, contributing to and often maybe doing a little bit of mediation practice between the principal and her staff in order to move things forward.

Q. I'll come back and touch on perhaps the idea of mediation between the principal and staff, but just

going through your statement, at paragraph 47, we start to talk about abuse at Donaldson's. And in that paragraph, you talk about whether it was on your mind.

Was abuse something that you thought about at the time?

A. I mean, I don't know that I'd use the phrase 'at the time'. I think that by this time, people had become -- and this is a general statement -- people had become aware that institutional life in, you know, these sort of institutional residential centres across the UK, in Victorian times and since then, had been places easily targeted by people who might have abuse on their minds.

So I don't think anybody in their -- anyone with any sense of place could possibly have walked through the building of Donaldson's and not thought, 'I wonder what life was like in this place when it was run as a Victorian institution', and anybody that's worked with disabled children and adults, vulnerable children and adults, know that the unscrupulous can take advantage of them. And so you couldn't possibly walk through the building of Donaldson's and not think, 'I wonder whatever happened here in the past'.

And I think that, however, made the staff at the time I was involved -- and I do mean this quite sincerely, and I'm not starting with when I became

chairman, but when I went on to the board -- all of the staff knew that they were working in a building that people could easily, easily make assumptions about its past life and, therefore, they had to be doubly sure that they were above criticism.

And that would be a feeling that you would have about Donaldson's. You would look at some of these old rooms and old building spaces and think, 'Oh my, this is' -- you can just imagine. And I think because of that, most of the staff -- maybe I would like to say all of the staff -- were acutely aware that they had to be more careful than anybody else, because they were living in that kind of place that had that kind of DNA.

I hope you can understand what I'm trying to say there.

Q. Yes, thank you.

You talk again, I guess at the end of that paragraph, about trusting your judgment that you'd appointed people who were above that reference to abuse.

How would you ensure that you had appointed people who were above that?

A. Well, you know, nobody can ever be 100 per cent certain that they've made all the right decisions. You simply have to, you know, make the right appointing judgments, you have to take the right references, you have to look

at people's experience, you have to listen to what their values -- their set of values looks like, and you have to make a judgment as to whether that's sincere. And over the years, I would say I've been pretty good at that. I've made a lot of senior appointments in different spheres. But none of us is infallible.

Q. At paragraph 48, you say that:

'Whenever allegations were made, they would be strongly denied, with an explanation that the child was exaggerating or making things up.'

Are you able to explain this further?

A. Yeah. I mean, again, this is -- this paragraph is obviously in response to a particular question and, you know, as I remember it, I -- it was not a huge feature of my time on the board or as chair, that allegations of abuse of any kind -- it was not a feature that there were -- not a regular feature of my time.

Occasionally, there would be a complaint, an allegation that something had happened in a classroom or in a corridor or in a room, and, of course, the people involved, the governors involved, would want an explanation, and what I'm trying to say here is that they would -- on the occasion that it happened, there would be strong representation -- and maybe 'denial' is too strong a word, but strong representation -- that

a child was exaggerating what had happened to them or interpreting what had happened to them in a particular way. And the judgment for those involved at that time would be as to whether that member of staff was offering a reasonable explanation or not.

And on the one or two occasions that I was involved -- and this is vague recollection stuff -- maybe one in particular about a recollection of an incident where a child had claimed to have been kicked. The explanation given was that the child with complex needs had to be restrained and, in the process of dealing with a child with severe communication difficulties, physical intervention was required. And if you hear that story told to you by a competent and trusted member of staff, then you've every reason to believe it.

Q. When you talk about that particular example, do you remember who the staff member was?

A. Yes, the one that sticks in my mind is the allegation against David Scott at the time he was principal.

Q. I'll perhaps come back to that later on in your evidence, but again, just moving through your statement --

LADY SMITH: Sorry, just before we leave paragraph 48, John, you twice use the word 'assumption':

'... the assumption was that people wanted to work in these places for good reasons. The assumption was that the vocational nature of the work was such that they would be genuine.'

Were those safe assumptions to make?

A. Yeah, I think what I'm looking at here and what I am saying here belonged to the past history of the institution. That wasn't an assumption that we were making when we were appointing in the 1990s and 2000s.

LADY SMITH: I see.

A. But I was trying to describe at that point what institutional assumptions were made in the past.

LADY SMITH: Yes.

A. If you were prepared to do this, then, well, you must be called to it. And that was a particular ethos, a very strong ethos, in Scotland at one time.

LADY SMITH: I wondered also if those assumptions were only being made in relation to the risk of children being sexually abused, and yet, as I'm sure you appreciate, there's a wide range of ways in which children in residential care can suffer abuse; do you think that was possible as well?

A. I think that is possible, for sure I do. I -- however, you know, if we're looking at this through a historic lens, then I think that the time -- the timeframe that

I was making that statement about is also the time when, you know, children like me at school would get regularly belted for bad behaviour. So, you know, we're looking at a time in history when, you know, corporal punishment was still institutionally approved.

LADY SMITH: But there is also, of course, the possibility that the abuse a child suffers -- and I've heard from many people that what was the worst thing for them was what we broadly call emotional abuse: denigration, the way they were treated, the way they were regarded, the attitude, if you like, of people who were caring for them.

A. Yes.

LADY SMITH: And the way other children targeted them, that staff turned a blind eye to or didn't bother to be aware of. That also can be really damaging to a child.

But I suppose in the old days, as one might call it, there was a lack of awareness of that.

A. Well, you see, I think in Donaldson's -- in Donaldson's, if we go back to the physical nature of the building, I think in the time I was around the place, the staff were acutely aware of what the history might have been because of the physical appearance of the place, and that's why I was saying that in my memory of the staff at Donaldson's, they were more acutely aware of the need

to be -- what's the phrase? They were acutely aware of the need to be above criticism --

LADY SMITH: Yes.

A. -- because they were working in a place where it could easily be assumed that the past had been pretty shabby.

LADY SMITH: Thank you.

Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

Now, turning on in your statement to paragraph 50 on page 13, you mention there that you were involved in and responsible for the policy relating to care of the children at Donaldson's School, and you say that you were relying on professionals providing you with templates for various policies.

What professionals were you relying on?

A. Well, at that time, I think what I was trying to answer was a question about whether we thought the people who were heads of the department, the principal herself, people responsible for residential care and so on, whether they were people that we felt were well-qualified and able to provide us with substantial confidence that the school was being properly run.

But we at that time also had -- we had joined SCIS, we were getting professional input from them, and from, you know, cross-fertilisation of ideas with other

residential schools, and, where necessary, we were relying on the people who wrote the reports, the ELRIS report in particular, to provide us with access to the kind of expertise we needed in order to put the right policies in place; and not just put them in place, because there were policies in place and they might have been falling short of perfect, but we wanted to put policies in place that were visible, that were accessible and that were transparent. And, if anything, that was the major shift from -- it's one thing to have a policy in place; it's another thing to have a transparent policy people know about and that people realise or understand is a living document and actually means something. It's not just a document stuck in a filing cabinet.

Q. So when you talk about that major shift then, was it to create more awareness of the policies that were then in place?

A. Yes. Although it has to be said that that wasn't a terribly difficult job because there was plenty of publicity around the fact that Donaldson's had to move from where it had been to where it was going. So we were under -- we weren't under a microscope; we were in a telescope.

Q. Now, John, I'm going to skip forward slightly in your

statement to page 16 at paragraph 63, where you begin to talk about the recruitment of staff at Donaldson's.

And you say in this paragraph that:

'The principal was regarded as the senior manager of each element of the school, [so] the primary school, the secondary school and residential care.'

So when the building works were going on in that period of change, and I think both David Scott and Janice MacNeill were principal, did they have responsibility for all of those elements, or did any of them have assistance in each one?

A. That's a big, long question.

Q. Would you like me to rephrase it?

A. Reaching from David Scott to Janice MacNeill is a big, long period of time and a long period of change as well.

So, you know, what was in place and how David Scott recruited people alongside the board at that time is not something I could properly comment on.

In Janet Allan's time, which was certainly my most -- one of my most concentrated periods of involvement with the school, relative to its educational, residential, pastoral needs, then Janet Allan was brought on board with, you know, particular responsibility to put the house in order, and my recollection would be that, together with her, either

myself, one of the other governors who had been more responsible, perhaps, for the educational side of the college, the residential side of the college would work with her if she needed an input on senior appointments.

When Janice became principal, of course, I was still very much involved, and certainly principally on the business of the move of the campus. She was partly recruited because she had, we thought, within her, the energy and the capability of being able to manage that part of the process, and in order for her to spend time on that, there were, as I remember it -- I'm not specific about this -- but there were other senior appointments being made to assure. And even right back to David Scott's time, there was a vice-principal as well. There was a deputy principal.

So there's always been a senior management structure in the school. The buck stopped at the principal in terms of complete management of the place but, like all other managers, there was a dependence on people at deputy level and at department level, and there was certainly, I believe, enough senior staff in place to both run the school and manage the move of campus when Janice was principal.

Q. So I take from that that the board perhaps considered that the principals, during that period of change, were

properly supported by the management structure underneath them?

A. I would say so. I would like to believe that was the case.

Q. You talk there about the recruitment of Janice MacNeill and how, at that particular time, she was the, I guess, desired candidate, given the focus of the school.

You mention at paragraph 65 that you can remember struggling with the fact that there were highly qualified deaf applicants. Was it something that you considered at that time, perhaps, the appointment of a deaf applicant?

A. We did, and it was a very open process, in which, when we looked at the recruitment grid, as you do, and the way in which you assessed the interviews and the application process, then -- I can't remember how clear it was, but Janice -- and I hate using the phrase 'ticked the boxes', but she was the person that came to the top of that grid because of the range of her experience in education, and the energy with which she was prepared to contemplate a huge upheaval, which would be, you know, a main focus of someone's life for several years. And by main focus, I don't mean taking the focus off the educational side of things; I mean having to work night and day, seven days a week.

Q. Now, you go on, on the next page, to talk about the Scottish Council of Independent Schools, and I think we've covered that this morning in your evidence. But you mention at paragraph 69, reflecting back on the trustees, that:

'At the time, the supervision of the trustees, which moved from very loose to being more rigorous, was partly the role of the chairman of the board and partly the role of the clerk.'

So because of your involvement with the Scottish Council of Independent Schools, did the oversight of the trustees become tighter?

A. I believe so, yes, because -- but I think you'd put that in the context of the fact that I think that this is a period of time when the role of trustees across every institution and every charity was changing, and, you know, the whole business of trustee liability, the whole understanding of charity governance, was shifting significantly, not just in Scotland.

And so there was a significant movement at the time, which made opportunities for training and for understanding how to operate as a board became much more professional.

Q. Now, you talk at paragraph 72 -- and, again, it's something that we've touched on this morning as well --

but your supervision of the principal was a formal process, and you say that, in your case:

'That would be rigorous both in terms of the background against which we were operating, and in terms of the pastoral support needed for someone who was rocking the boat.'

Are you able to expand on that a bit further?

A. Just give me a second here. Sorry.

Yeah, I mean, I remember -- and we are going back a long time; remember, I'm -- sadly, I'm in my 70s now, and this is 30 years ago. But I remember spending a lot of time on preparation for appraisal meetings, and we had formal paperwork, and I'm sure -- well, I hope that it's somewhere, in a filing cabinet somewhere, that both when I was principal in Janet Allan's time and principal in Janice's time, that we had regular meetings, formal and informal, and at least twice a year, as I remember it, we had a formal appraisal meeting, paperwork prepared in advance, a review of the paperwork, and then a report to the board. And that was certainly a feature of my years -- my eight years, I think it was -- as chairman.

Q. And you talk about your level of preparation for the appraisal meetings; presumably there was a level of preparation required by the principal as well for those

meetings?

A. Oh, yes, and it was always done. It was something we paid attention to and it was thorough.

Q. Thank you.

Now, I want to just move on, again, further in your statement to page 19.

And at paragraph 75 and onwards, you talk there about the policy in relation to the restraint of children at Donaldson's School. While you say that you don't remember handling such policy, you say that there were complexities around keeping pupils safe from themselves and others.

At paragraph 76, you say it was explained to you that the restraint policy at a deaf school might not be the same as in a non-disabled environment.

Do you remember who explained that to you and what your views were on that?

A. I think in paragraph 77, I mention both David Scott and George Montgomery, who was an educational psychologist and had worked all of his life, not just with the deaf but within the context of Donaldson's. I suppose I relied on, in the early days of my time, on their input with respect to how you managed difficult behaviour in a deaf environment. It's not something I had, you know, personal experience of. So you depend

on those who have worked in that environment all of their life.

That's not to say that, from the beginning of their working life to now, there hasn't been considerable evolution of understanding and practice. But at that time, in the 1990s we're talking about, then I had an understanding that sometimes -- and remember, we're talking here -- and I think I say this in another place -- we are talking here about post-Riddell Donaldson's, where the population of the school was of pupils with multiple and complex communication difficulties.

The high-achieving deaf -- you know, that's a differentiation that some people might not like to make -- but the high-achieving deaf had been integrated into local schools, and often Donaldson's got those that a local education authority had decided they couldn't integrate; they didn't have the resources or they didn't have the money, and so Donaldson's got the high -- the kids with complex needs.

And often, we got them after the integration process had failed, so there had been a couple of years of trying to integrate them locally. And so a child often came to us from an experience of which the integration in practice had had a negative effect on their

development, and so coming to Donaldson's -- and I've tried to describe what it would feel like to have been in a small local primary school or in an integrated deaf unit locally and then coming to this place, which was so giant and so austere in many ways, I can't imagine what it would be like for a youngster to walk into that building for the first time. So, you know, we're not talking about anything that can be compared to the sort of simple day-to-day experience of most children.

And so I was introduced to the concept that, often, in order to restrain or keep a child safe, then it involved the kind of physical restraint that you wouldn't necessarily expect in a normal school environment.

Q. And moving on, as well as issues of restraint, you talk, at paragraph 87 on your statement at page 22, about absconding.

A. Yeah.

Q. You mention that you don't recall hearing any stories about bullying at Donaldson's or about absconding, and at the final line in that paragraph, you say:

'As far as I understood it, they were escaping for the day on an adventure.'

Was this the reasons for children leaving the property that were given to the board?

A. Erm, yes, yes, and, you know, I wasn't aware of kids -- and I honestly was not aware of kids running away because they hated being there. I'm not saying that every child enjoyed being there, not every child enjoys being away from home and so on, but you could see it -- you could see Donaldson's, you know, also as a place of adventure if you were a youngster, and there were one or two cases of reports of kids that had disappeared for the day or that -- and there were panicked moments, but I was led to believe that they'd gone out in an adventure, rather than in an escape from, well, an environment that was, for them, dangerous.

Q. And the reports of, you know, the children having gone out on an adventure, was that provided by the principal or was it other staff members that would say this?

A. The principal would be the person who made the report to the board or to the chairman, but it would be backed up by other members of staff.

LADY SMITH: Ms McMillan, it's half past 11, I think -- John, you've been giving evidence for an hour and a half now, I'm very conscious of that, and I would normally take a break at this time anyway in the morning to give anybody a breather including, in particular, the stenographers who are quietly working hard here at keeping the record.

Would it work for you if we took a break just now?

A. Yep, that's fine.

LADY SMITH: Let's do that then. Thank you.

A. How long?

LADY SMITH: About 15 minutes, unless you tell me you need longer than that.

A. No, 15 minutes is fine. Yeah.

LADY SMITH: We can check with you whether you're ready in about 15 minutes. Thank you.

A. Okay, thank you.

(11.31 am)

(A short break)

(11.45 am)

LADY SMITH: John, welcome back.

A. Thank you.

LADY SMITH: Are you ready for us to carry on?

A. Yes, yes.

LADY SMITH: Thank you very much.

Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

Now, just before the break, we had been talking about absconding. I'm now going to ask you to look at paragraph 109 on page 27.

We have covered part of this, this morning in your evidence, but you mention the school building being like

a giant rabbit warren, and you say that:

'There were places to hide, places to go, and places to spy on people. On one level it was a fascinating place, but on another level for a pupil with communication difficulties, it could be intimidating or even frightening.'

Do you think, on reflection of that paragraph, that the physical premises of Donaldson's could have contributed to abuse?

A. I think, as I said earlier, on the one hand, it could have contributed to staff being ultra careful that they were above criticism, because living and working in such an environment may have put them in a place where certain assumptions might be made.

On the other hand, you can't possibly -- I mean, the board wouldn't have been so concerned about modernisation and about moving to custom-built accommodation if it hadn't been concerned that the environment was inappropriate for modern-day education.

Now, it was inappropriate on the basis that you couldn't provide the correct acoustic and technical innovations that were required, and that would be the primary reason for wanting to move to a custom-built and modern facility, but you couldn't help but also add that, as an environment for young children experiencing

their educational life, then it wasn't a suitable place to be.

I wouldn't necessarily make the assumption that it made it easy for abuse to happen because, over and against the fact that the building was difficult to secure, it was also one in which I think staff had to be ultra careful.

Q. Now, leaving the building behind and turning to page 30 of your statement, from paragraph 124, you begin to talk here about the reporting of abuse at Donaldson's.

And at paragraph 125 in particular, you talk about the issue of dismissal of a member of staff, due to an allegation of abuse or mistreatment of a child.

But you say on the last line of that: '[You're] not entirely sure how and under what circumstances David Scott's tenure came to an end. It would be very dependent on where you were sitting as to how you would describe it.'

Are you able to offer us any more insight about how David Scott's tenure came to an end?

A. Mm-hmm. Well, in all honesty, my memory is vague. In all honesty, at the time, I was not one of the key players in the process. It was, I'm sure, being handled by the convenor at that time and by the board's legal advisers.

LADY SMITH: So that was Mr Guild?

A. Yes.

LADY SMITH: Yes. Thank you.

A. And so -- and a number of things were happening at the same time. There was -- I hesitate to call it 'noise in the system', but there were -- there was publicity around this and, as with all publicity, there was gossip, and there were foregone conclusions being proposed by people in the press, for instance. And I'm not sure that, because of the noise, it was possible for David Scott, or anybody in that sort of position, to necessarily get the fairest of hearings, because then you have a situation developing where the individual is under pressure and the institution is under pressure. And even if the individual is entirely innocent, the institution itself has to consider what damage has been done to its reputation by the speculation and by the sometimes inappropriate reporting.

And so I'm trying to express in this that, behind the scenes, whether David Scott was dismissed, whether he was invited to resign, whether he did resign, then I'm not entirely sure. What I do know is that it was too much for the board of governors at that time to continue his appointment as principal, and the reputational risk, whether that translated into a real

and present danger, I don't know, but I know that he was compromised in his ability to continue to be the principal.

MS MCMILLAN: You talk at paragraph 126, following on from that, that during David Scott's case, you came to the fore as possible convenor because you were seen as a safe pair of hands to follow on from what had gone on, what had happened or not and how it had been handled.

Were there concerns about how David Scott's case had been handled?

A. It would be awfully simple just to simply say yes, but these things are always more complicated than that. You sit around a boardroom table, and there's always going to be somebody with the benefit of hindsight who's going to say, 'Oh, you should have handled that differently'. And so there was discussion at the time as to whether the board, in its response to the press, in its explanation of the circumstances to parents, whether it had got it right.

I think in another place I say something about the fact that the board was both internally on the front foot but in another way on the back foot. It was trying publicly to say and assure people that they were in control and that these things were being sorted out, but at one and the same time they were having to deal with

a very difficult internal hiatus, and it wasn't easy.

So what are you asking me?

Q. So I was asking if there was concerns about how the board had handled David Scott's case?

A. There was, you know, considerable discussion about whether we had got it right, but then there's not much you can do about what you got wrong, except try to get the messaging right. And there's two things going on here: there's the messaging and there's the messaging for different constituent groups, and there's the action of what the board actually has to finally decide, and that's where I was saying that, you know, whatever the rights and wrongs of the case -- and I didn't hear it, I didn't try it, I didn't -- I wasn't involved in making a judgment on it at that time -- but it was inevitable that it led to David Scott's departure from Donaldson's.

LADY SMITH: But you were on the board at the time.

A. I was on the board, yes, and I was vice-chairman.

LADY SMITH: Yes, and you can't remember him actually being dismissed?

A. I can't remember him -- I can't remember it being described as a dismissal.

LADY SMITH: Do you remember if a payment was made to him?

A. I believe that it was an agreed departure. That's what I would describe it as. And I can't remember, but

I would assume that there would be some sort of payment to tide him over into hopefully a new role, and I --

LADY SMITH: Yes, because of course -- sorry, carry on.

A. Yeah, and there was, I think, an agreed reference as well.

LADY SMITH: Yes.

And so far as a payment was concerned, as a member of the board, you'd have to be satisfied that an unusual payment -- and it would be unusual -- was appropriate and justified in the circumstances, wouldn't you?

A. Yes, and that's why I wouldn't describe it as a dismissal, because my recollection is of an agreed departure, part of which would be some financial settlement in order to soften the landing.

LADY SMITH: I suppose you may not remember this, but at the time, by going down that route rather than dismissing him, the school avoided the risk of him then claiming unfair dismissal in the employment tribunal. Do you remember anything about that?

A. That's a finer detail of a conversation that may have taken place, but -- and I daresay if there was conversations of that sort of legal nature, then I suppose Ivor would have been all over that, but it's not something that I remember knowing.

LADY SMITH: Yes, because Ivor Guild was himself a lawyer?

A. Yes.
LADY SMITH: And the clerk to the board was also a lawyer?
A. Yes.
LADY SMITH: Yes, thank you.
Ms McMillan.
MS MCMILLAN: Thank you, my Lady.
Now, you talk in your statement a bit about David Scott on page 33, beginning at paragraph 133, and you say that he was a one-off guy, and you then describe him as a diamond in the rough.
What was David Scott like?
A. You know, I'm not a great fan of thumbnail sketches, and I suppose at the time I was being asked about this, I was being asked for a thumbnail sketch.
David was a competent, energetic individual, competent and confident in his own work and in his ability to manage. You know, my recollection -- and I didn't have an awful lot to do with him, to be honest. You know, I got to know him at, you know, board events, got to know him in the context of school events. Always seemed to me to be somebody who was, you know, pretty approachable by staff and pupils. That was my impression. But someone who was secure in his own ground and, you know, could be ... I don't know, a diamond in the rough? That was the closest thumbnail

I could come up with. He could be straightforward and forthright, and -- but I didn't see anything necessarily wrong with that.

Q. You then move on to talk at paragraph 135 about how he would interact with the children, and you mentioned that he had a good rapport with them. But also --

A. And that's my -- yes, sorry.

Q. Sorry, please finish. I didn't mean to cut you off.

A. No, no, I just say that's just my recollection of him. I don't remember children cowering away from him. He always seemed to be -- he knew them all, and in the context that I saw him working with the children, either in a classroom or in a corridor, they seemed to have a perfectly reasonable regard for him.

Q. And then you continue on the next page by saying that he was direct with them.

A. Sorry, what --

Q. On page 34, just at the top. It's a continuation of paragraph 135, and you say that:

'He was direct with the children.'

A. Yes, he was direct with everybody. That's where the kind of -- you know, maybe you'd call it gruffness or, you know -- what you see was what you got.

Q. Now, I want to turn on to another topic now.

Can I ask you to look at page 38 of your statement,

where you talk about the financial management of Donaldson's.

A. Paragraph?

Q. 155 on page 38.

A. Right, yes.

Q. You say:

'It was a constant problem to manage the finances.'

So was management of the finances the role of the board?

A. Yes, in the big picture. Once upon a day, national special schools were awarded grants by the government on a year-on-year basis, and until the changes that came about as a result of the Riddell Report, you could pretty well, I think, depend on an annual increase in funding and, as I remember it -- and this is going back a long time -- there were streams of funding for the educational side of the school and there were streams of funding for the fabric and other elements of upkeep of the building, and the board were always, always chasing resources for the building, because it was such a headache. And that would include therefore year-on-year applications to -- for funding from Historic Scotland or Heritage Lottery or private trusts and bequests, the names of which I can hardly remember nowadays.

But it was a huge thing for the board to be awarded

grants and opportunities that meant they could improve the premises without emptying the coffers.

Q. From your time on the board, would you say that the school was under an element of financial pressure?

A. Pretty well always, and, you know, we -- as I remember it, we engaged fundraisers, we did all sorts of things that institutions like Donaldson's would have to do. When we did it against -- excuse me, we did it against the background that -- and you can check these facts out -- but raising a pound for deaf charities is possibly 100 times harder than raising a pound for blind charities. So the challenges we could see across town at the blind school being able to raise additional funds for some of its work, over against the struggles we had to raise the money, then, yeah, it was always a pressure point for us.

Q. Turning on in your statement again to page 39 and, at paragraph 161, you say there that you can't specifically recall if there was a reporting process for children or if they wished to make a complaint or report a concern, but what you can recall is:

'... a serious shift, with the change in principal, to a more open and transparent environment for everyone. That is what Janet Allan was very good at.'

How did Janet Allan's leadership style then differ

from David Scott's?

A. Well, again, I have to say I was not so often in a one-to-one supervisory relationship with David Scott. My understanding of his management of the school is probably more intuitive than it was gained from a hands-on relationship with him.

Janet had, I suppose you could describe it as, the benefit of a care -- an ELRIS report which spelt out what had to be done. So she didn't -- she had a head start on how to bring the staff on board, and keep them on board, because they all knew that we were working to an agenda that had been set for us, so that -- and the whole culture was changing within the life of places like Donaldson's.

So the idea of having transparent lines by which, for instance, people could have access to safe passage or safe lines of communication to either the board, which wasn't particularly easy necessarily, or to pastoral support within the school, was, at that time, possibly easier to put in place.

Q. And following on from that, then, how would the leadership style of Janice MacNeill perhaps compare to that of Janet Allan?

A. Well, I mean, I would -- I can't say I've thought about that. I quite think that Janice inherited a structure

that was transparent, and I would have said that her availability, her open door to the rest of the staff, was different, a different style to Janet Allan, but I would have put it on a par, in the sense that she was available and open to listening, but she too could be firm about her views of how management should -- you know, what management decisions internally needed to be made, and she wouldn't be pushed around necessarily. But I would expect that of a good leader.

Q. And when you say that her style was different to Janet Allan, in what way was it different?

A. Well, I mean, I think, you know, everybody is different and, at a very simple level, Janet Allan was more of an introvert to Janice's extrovert nature, more out there and more up there in front of the troops and, at the time, that's what Donaldson's needed, they needed that kind of energetic leadership. At the time when we were reviewing internal policies and putting things in place that made the institution work, then Janet's style of leadership was the right one.

Q. Now, moving on in your statement, for the preparation of your statement, I think you were able to see some documents provided to you by the Inquiry, so I just want to ask you now a few questions about those documents.

A. Mm-hmm.

Q. So if you could turn to page 46 at paragraph 190.
A. Yeah.
Q. You can see in that paragraph that there was some correspondence in 1995:
'It was alleged that David Scott had gone into both the boys' and girls' dormitories while drunk.'
Was this something that you were able to recall at all from your own memory about an incident that occurred, that the board were made aware of?
A. Yeah, in my own memory of this -- and we are going back over a long period of time -- but, you know, I do recall this incident. If I'm totally honest with you, I think I was brought into this loop very late in the day. I wasn't one of the people who was involved in making a judgment on whether -- you know, to what extent this was, whatever it was, a sackable offence or an offence for a reprimand and a warning. I was brought on board at the time when I think it had been already decided that it was -- it was -- it merited a written reprimand, rather than anything more severe than that. I wasn't involved directly in the investigation.
Q. Who do you remember being involved directly in the investigation?
A. I think by the time I was told about it, it came through the clerk and the principal.

Q. You mention at paragraph 191 that --
A. Not the principal; the clerk and the chairman.
Q. So at paragraph 191, you do mention that you were brought in late in the day, and you said that at the stage that you were dealing with, it was effectively a 'he said/I said', and you had worked with the principal and knew that he had a certain manner and his account was believable.
A. Mm-hmm.
Q. And:

'... in the circumstances of Donaldson's School as it was, where he hadn't necessarily made friends with every pupil, that it was also believable that while he had behaved inappropriately and placed himself in a position that invited complaint, it was possible that the pupil had exaggerated the nature of the incident.'

Are you able to tell us how you came to this view of the incident?
A. Only because that's how it was reported to me, and then you bring your own intuition to it. I tried -- and I don't like thumbnail sketches, but I have tried to describe how David -- kind of, another way of describing it would be that he sometimes, occasionally, could be his own worst enemy because of the way he had expressed himself.

So here's a situation I'm told about where he has done something that has been inappropriate, but he's done it for the best of reasons, allegedly, so if it had been an open and shut case that he had crossed a line, then I trusted that the people who had heard this case and made a judgment on it, who were legally qualified people, I trusted their assessment of the two sides of the story.

LADY SMITH: But do I take it that you, John, had not heard directly from the children -- and we are talking about children here -- as to their account of what had happened, and you hadn't heard directly what David Scott had to say in response to that?

A. That's correct, in my case, yeah.

LADY SMITH: Yes. Ms McMillan.

MS MCMILLAN: Thank you, my Lady.

And then you discuss at paragraph 194 that -- again, it's something that we've discussed in your evidence today -- but ultimately what transpired was not something that you were involved in, the negotiation that removed David Scott; it was a termination agreement.

A. Yes.

Q. You can see that at the bottom of paragraph 194.

A. Yeah.

Q. Turning to page 49 and paragraph 199, you were provided with some letters from HMI and, in particular, there was again a letter referencing David Scott.

And you say at paragraph 199:

'When it came to the previous memorandum regarding David Scott's having come to the end of his usefulness to Donaldson's School, reputationally, his boats were burned.'

Are you able to expand upon that at all, what you meant there?

A. I'm not even sure I meant simply that his boats were burned; I think his boats in relation to Donaldson's were burned. The way in which the news of this broke, and the way in which it undermined the confidence that the board and the senior members of the board -- the way in which it undermined their confidence in David Scott, then, you know, his boats were burned. I'm not trying to say that he had no future whatsoever, but because of how things transpired, then the relationship had come to an end, and it was a collection of small things that added up to a big thing, which was, you know, based on the confidence the board could put in him, or the confidence that Donaldson's could have that it would -- that it could regain the trust of its community with David still in place.

Q. And you go on further in that paragraph to say that:

'David Scott was not the best at sucking it up when he had to get the thing done.'

A. Yep. And, again, that's a recollection of mine, that as new standards were being asked for, new processes or the review of old processes were being asked for, David might have had -- might have been in the category of those who were more resistant to that kind of change.

Q. Now, turning on in your statement once again to paragraph 201, this time, I think the Inquiry provided you with some information relating to a previous investigation into an allegation made against David Scott concerning a female student in Lochgoilhead.

A. Mm-hmm.

Q. Is this something that you remember being investigated when you were on the board?

A. No, I don't remember that, and I don't remember -- well, I mean, I wasn't involved in David Scott's -- directly in David Scott's appointment, so I don't know if any of these things ever came up. It certainly was news to me. And then there's a point at which you wonder, you know, what was the nature of these allegations, and since that's all they were, you know -- but certainly it was news to me.

Q. So this particular allegation we understand to be

a reference to a rape allegation.

A. Yeah. News to me. It was news to me.

Q. You -- I think later on in the document it then goes on to say that the allegation appears not to have been taken seriously by the board of governors -- this is at paragraph 203. So:

'The document goes on to say that the allegation appears not to have been taken seriously by the board of governors if it had gone to the same or a sub-committee of the board of governors.'

Do you have any particular comments to make about that?

A. Yeah, I don't. I mean, I wasn't aware of it at the time and I would be speculating to tell you what I thought was in the mind of the board in relation to this. And then you go on -- then you go on to ask about the case of a member of the board keeping quiet because he had a child that he was keen to be placed in the school. I have no recollection of this whatsoever. I couldn't even -- I've tried to drag out of my head who that might have been, but I just don't know.

And so, you know, I have to come to some sort of conclusion that, at the time, this particular allegation otherwise had been investigated by others, and that satisfied our board that they were no more than

allegations. That's what I have to assume, but that's all it is: an assumption. I wasn't involved in the detail of it.

Q. As a member of the board of governors, if you were aware of such an allegation, is that something that you would have taken seriously and investigated internally?

A. I'd certainly have wanted to know what the outcome was of the original investigation, yes, and I don't think I would just have assumed that it was spent. But I didn't know about it.

Q. When you say that it was 'spent', what do you mean?

A. Well, dealt with. Dealt with satisfactorily. It was not -- I don't think in this case we're talking here about, you know, a spent sentence or -- I understand from this, which has come to me at this stage -- I understand from this that it was dealt with at the time and it was dismissed, and I -- have to try and understand that we wouldn't have employed him if it hadn't been.

Q. Now, turning to page 52 of your statement and paragraphs 207 and 208, I think you're asked to comment on a further letter from Her Majesty's Inspector of Schools in December of 1997. And in that letter, it states:

'An issue, which will need to be explored during our

inspection, concerns the role of the board of governors in managing the school. A minute of 2nd July from Mr Marquis suggests that they have not been proactive in monitoring the work of the headteacher. They state that there was also a suggestion that the headteacher had been putting barriers in the way of the social work inspection service.'

Do you think that's a fair criticism of the board at the time?

A. Yeah, I think I go on to say that in paragraph 208, that it sounds like a true assessment of what was happening. And it had a bearing on -- on -- I suppose it had a bearing on my being appointed as chairman, a sort of new understanding of what the responsibilities would be.

Q. Can you offer any reflections at all as to why the board at that time wasn't proactively managing the role of the headteacher and the work of the headteacher?

A. Well, first of all, I'm not aware of the way in which the relationship between Ivor Guild and David Scott developed. I'm not aware of how they worked together. I just don't know. So it might be unfair of me to say that the management of the principal didn't even come into it. That would be wrong to say that.

On the other hand, I think we are looking at a period -- a specific period in time, when the

responsibility, the trustee responsibility, was being reviewed more generally than at Donaldson's, and so the level at which trustees were meant to be involved in the management of their senior staff was being understood in a new way. We were in a transition time, and it may well have been an area in which the board had been slack for years; not just in Ivor Guild's time, but under previous chairs of the governors, not seeing the particular responsibility for management oversight, appraisal of the senior staff, and this was a moment in time when that was about to change.

Q. Now, moving on to paragraph 209, I think this refers to a document where there's a timeline of David Scott and two other teachers' suspensions and includes letters from the chairman of the board of governors to the Director of Education.

A. Mm-hmm.

Q. And you talk at paragraph 212 on page 53, so the next page, it's all focused around 1998, and I think this is what you were telling us earlier that:

'[You] have a recollection that the public-facing side of the board of governors was in defensive mode, but privately it was in attack mode.'

A. Mm-hmm. Yeah. That's the situation I was talking about earlier. I think it's often the case that the boards

have to deal with things internally that would be so much easier to deal with if there wasn't so much external noise that was pre-empting decisions the board might make or even pre-empting judgments, and, you know, pronouncing people guilty without trial. So that's a difficulty for any governing body that's in the public eye.

So the board was having to deal with two very different things; on the one hand, what it needed to do to put its house in order internally, and how it responded to some of the more sensational speculation that was going on outside. And, you know, you can look back on that now and say, well, the letter they sent to parents was a bit crass, you know, at the time, as I say, the board was looking in both directions.

Q. Now, you move on to discuss a further document that's provided to you at the top of paragraph 213 at page 54. And it's a memo, and it says in that that:

'The [board of governors] really had no idea what to do in light of the allegations and ... the board members really do not understand their roles and responsibilities and saw membership as a status symbol in the Edinburgh community first and foremost.'

Do you have any comments to make about that particular remark?

A. Nothing particularly positive to say about it. I think it's one of these really speculative remarks that the individual probably had no right to express. On what grounds and with what evidence was someone able to make that sort of statement? It certainly doesn't bear any resemblance to the reality that I remember. Being a member of the board of governors at Donaldson's; in what world was that a status symbol? I don't know.

Q. And that, from your own impression, is not how the board or the members were operating on the board, using it as a status symbol?

A. I might want to examine what this person was saying about a lack of understanding of the roles and responsibilities, but I don't think they had any right to say that members of the board were sitting there because they needed the status of being a member of the Donaldson's board. It was anything but that.

So that undermines the statement. That's what I'm saying.

Q. Now, you go on again in your statement to talk about the ELRIS report, and that's something that we've spoken about during the course of your evidence today, and that really being a fundamental report that sparked a movement of change within the school.

A. Mm-hmm.

Q. And you say at paragraph 220 that:

'You note on pages 10 to 12 of the report, concerns are raised about the sanctions being imposed on pupils, for example, pupils being sent to their bedroom all night, and a pupil getting nothing to eat one night because he did not clean his bowl. Concerns were also raised about children being segregated from other children for periods of time as a punishment.'

And you go on to say that that was perhaps the culture at the time in the school.

A. Yes.

Q. At paragraph 222, you say that when you tried to change the culture, that is when you realised how 'embedded those old styles have become'.

A. Mm-hmm. Yes.

Q. Did you find that those sort of styles of punishment and the concerns that were raised in the report had been embedded in the school for a period of time?

A. Well, it may be worth saying that the ELRIS report was the worst and the best thing that ever happened to Donaldson's, because it was hugely challenging, it was stunningly frank about the nature of the school culture, but it was the best thing that happened to us as a wake-up call.

Do I accept without investigation that such

Victorian sanctions were still being used within the school? I suppose at the time we did accept that that was the case. I'm just saying I never saw it. I never -- I had no direct experience of it.

But up until this moment, I wasn't a regular visitor in the school. I wasn't the person who was going in from day to day, working with the principal. So I didn't see this first hand. But I can understand why -- and I've said stuff about the nature of the building, I've said stuff about the nature of the use of corporal punishment in the past, and how teachers had to be terribly guarded against absorbing what this building could do to you.

So that this kind of culture might have existed in pockets, then that's believable. The ELRIS came along and told us that we had to be even more guarded than we were being, and that did us the world of good.

Q. And I think you have indicated during your evidence today that that really sparked your change in approach to your role as a trustee on the board of governors.

A. Yes, it did, and I wouldn't have -- and I took it on on the basis that I was -- I had my eyes wide open to what the challenges were, and over the period -- over the duration of the next -- the first two or three years of my convenorship, it was like having a second job.

Q. Now, you were provided with another document by the Inquiry, and this is referenced on page 57 at paragraph 226. It's a letter dated 2 August 2014, from you, which expresses your support for Janice MacNeill, and you say Janice, as you understand it, was dismissed for failing to follow child protection guidelines. And we understand this to be a letter of support to the General Teaching Council.

A. That's right.

Q. Why was it that you wrote this particular letter of support?

A. I think I've tried to explain that in the statement, that, first of all, I wasn't involved by that time, I was no longer the chair when this incident that led to Janice's suspension and then removal -- I wasn't involved in any of that, and I couldn't even comment on, as I commented on the way in which David Scott's departure, how I understood that -- I don't know the detail of Janice's departure.

But I do know that while she was principal in my time, without her, I don't think we'd have been able to achieve what we achieved in removing ourselves from the old culture into the new one. It was not without its difficulties, and the very -- the physical nature of the move, the cultural nature of the move, the extraordinary

amount of change that was involved and, with it, the stress that comes with that, I don't think could have been managed by very many people other than someone like Janice.

And you don't make -- I often say this, and don't take it too literally, but you don't make omelettes without breaking eggs. And so as some of these changes were put into place, some people didn't like what was happening around them. But, nonetheless, Janice drove that change through and that's what needed to happen.

And so whatever had happened to bring her tenure at Donaldson's to an end, I didn't think that it merited the -- that it merited not acknowledging what she had been good at and what she had done for us and, by way of reference, I was prepared to say that she may have made -- and I don't know -- she may have made a poor judgment call at some stage, but it wasn't, in my view, something that should be a stain on her outstanding career up to that point.

Q. And finally, the last document I want to ask you about is on page 58, at paragraph 231.

A. Yes, mm-hmm.

Q. And it references a timetable of events regarding RBK [redacted].

A. Mm-hmm.

Q. And we can see that it talks at that paragraph that:

'The first incident was reported on [7 January 2002] to a care worker. A decision was taken to respect the abused girl's wish to remain anonymous and was not reported to the police.'

Do you remember RBK and the allegations involving him being discussed at board level?

A. I don't remember it being discussed in detail. I remember it as a report to the board from the principal, and I do remember being involved in conversations with the principal and Neil Donald at the time, prior to it being reported to the board at its next functional meeting, and you can see from the very description of the case that it was fraught with complication, and so was RBK fraught with complication, and you could see at the time -- I had significant trust in Neil Donald's judgment and in Janet Allan's judgment that this could be handled in a particular way, and I think they lived to regret that it was handled that way, but at the same time, when I was offered an insight into the complexities of RBK 's life and his life in Donaldson's, I think we were all aware that if his educational career came to an end prematurely, then nobody else was looking out for him. And so the decision seems to have been made on

pastoral grounds, and was quickly reversed when -- when it was reviewed.

But it fell into the category of one of these 'you're damned if you do and you're damned if you don't'.

Q. Looking back on the reports and the conversations that you had with Janice and Neil Donald, do you think now the board would have taken a different action if that report had come to you?

A. I don't know the answer to that question.

Q. At the time, were you acting, I guess, on the advice and the investigation having been conducted by Janice and Neil being a thorough one?

A. Yes.

MS MCMILLAN: Allow me one moment.

John, I don't have any further questions for you, thank you very much.

A. Thank you.

LADY SMITH: John, I'd just like to add my thanks to you. We have probed and explored your memory, we have demanded answers for some hours now and I'm sure you're exhausted, but thank you very much for bearing with us. It's been such a help to hear from you directly. I'm very grateful, thank you.

A. Thank you for the opportunity. I'm sorry if some of

it's so vague. I wish my memory was better than it is. And you're right to say it's not easy to trawl all these things --

LADY SMITH: No.

A. -- from the memory and you regret some of the times that you didn't have the gift of hindsight when certain decisions were made.

LADY SMITH: Mm-hmm. Well, I'm grateful to you for that. Thank you again.

A. Okay, thank you.

LADY SMITH: We can now switch off the link. Thank you.

A. Thank you.

LADY SMITH: Right.

MS MCMILLAN: Thank you, my Lady. There are no further read-ins for this block and I think that does conclude the evidence until 2 o'clock, where we will have an in-person witness.

LADY SMITH: Thank you very much. Well, I will rise now until 2 o'clock.

(12.48 pm)

(The luncheon adjournment)

(2.00 pm)

LADY SMITH: Good afternoon, and welcome back to our hearings today into evidence regarding Donaldson's School for the Deaf's provision for the residential care

of children.

Now, Ms Innes, where do we go next?

MS INNES: My Lady, this afternoon's witness is Mary Mulligan. She was a member of the board of governors at Donaldson's from about 2012 until 2014. She was chair of the board from the summer of 2013 until November 2014. She resigned from the board, I think, with effect from 24 November 2014.

LADY SMITH: Thank you. (Pause)

Mary Mulligan (sworn)

LADY SMITH: My first question for you is, I hope, an easy one: how would you like me to address you? I'm happy to use your second name or your first name, whichever would be more comfortable?

A. I think my first name would be fine, thank you very much.

LADY SMITH: Thank you, Mary.

Thank you for coming this afternoon to help us with your evidence, and particularly thank you for the detailed written statement you've already provided. That's part of your evidence to the Inquiry and it's been good that I have been able to read and study that in advance. So we won't be going through it word for word, so I hope that's some reassurance for you.

If you've got any questions at any time, please

don't hesitate to speak up. If what we're asking doesn't make sense, that's our fault, not yours. Or if you think we're missing something that you want to tell us about, do feel free to do that.

So far as breaks are concerned, the basic rule is, if you need a break, that's fine with me, you just tell me. I will take a break in any event at around 3 o'clock. I always do that to give everybody a short breather, particularly the stenographers, who have quite an arduous task here. But any other time, just let me know.

A. Okay.

LADY SMITH: Otherwise, if you're ready, I'll hand over to Ms Innes and she'll take it from there. Is that all right?

A. Yes, thank you.

LADY SMITH: Thank you.

Ms Innes.

Questions from Ms Innes

MS INNES: Thank you, my Lady.

Good afternoon, Mary.

I wonder if I could ask you first of all to look at your statement. The reference for that is WIT-1-000001654, and if we go to page 48 of that, and paragraph 171, it says there:

'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.'

And then we can see that you signed your statement on 14 August of this year; is that correct?

A. Correct, yes.

Q. Thank you.

So if we go back to the beginning of your statement, you tell us that you were born in 1960.

A. I was.

Q. And you go on to tell us a bit about your professional background. I think you had a background in human resources, and you tell us that after you had children, you became a local councillor.

A. Yes.

Q. And then you entered the Scottish Parliament as an MSP in 1999, and you were there until 2011.

A. That's correct.

Q. And you represented the Linlithgow seat.

A. Yes.

Q. And after that, you were employed by Christian Aid for a period, up until 2020, when you tell us that you took redundancy and effectively retired from there?

A. That's correct.

Q. Okay.

At paragraph 3, you tell us that, in addition, you've had some board roles, and one of those was the board of Donaldson's.

A. Yes.

Q. So if we move on to page 2, and paragraph 4, you tell us there that you joined roughly in about 2012, so not too long after you'd left the Scottish Parliament?

A. Yes.

Q. And you were a member of the board for roughly about a year before you became chair, and we know that was in the summer of 2013. You say that the fact that you became chair was a surprise to you as much as to anybody.

Why was that?

A. I -- as you've just pointed out, I had not been a long-term member of the board and there were some members who had been there significantly longer than I had. However, they felt they were not wanting to take on the role of chair and I was asked would I consider it and, having thought about it, I accepted the offer to become chair of the board.

Q. Okay. Who was the chair of the board who immediately preceded you?

A. Robert Burns -- no, sorry, not Robert Burns.

Q. Richard Burns?
A. Richard Burns, sorry, yes.
Q. And was it planned that he was going to step down from the board, can you remember?
A. Yes, it was. He had been a member of the board for some time and he had also been chair for a good while as well. I think he was looking at retiring from his workplace too and it was just he wanted to kind of move on from the responsibilities he had.
Q. Okay.

And do you know why it was that other board members who had been there for longer than you -- do you know why it was that they didn't want to take on the role of chair?
A. I don't. I think, you know, you would need to ask people why they didn't. I wasn't -- I didn't think that it was because it might be particularly difficult. I think it just -- it felt that it just didn't suit their circumstances at the time, and I suppose because I was, at that stage, just moving into a new job and felt I did have a bit more time, that I thought I would be able to do that.
Q. Okay.

And you note at paragraph 5 that you'd a lot of experience of being involved in committees and through

your work presumably as a councillor and at parliament. So, from your perspective, it didn't feel particularly daunting to take on the role of chair?

A. I always recognise that being chair is another step, but I was very happy to become a member of the board, and what I had seen over that first year made me feel that becoming chair was not going to be too much of an imposition. So I was quite happy to do that. I felt that the other board members would offer support and also that the executive of Donaldson's School would be supportive. So I didn't have any fears about it.

Q. At paragraph 6, you say there were a lot of board members when you first joined, there might have been about 14 or 16, and you say:
'There was probably 'more than there should have been'.
What do you mean by that?

A. I think my experience of being on other boards was that when you look at the make-up of them, that actually having too many members is as bad as not having enough. So there is a kind of, probably -- 14 or 16 is quite large, in my experience, and, you know, I don't think -- I couldn't see there was a particular reason for that.

Q. Okay.

LADY SMITH: Could it have been to do with the number of ex officio members the trust required them to have?

A. I think that my figure there is actually referring to the board members themselves; the ex officio would actually have been extra.

LADY SMITH: Oh, so they would be on top of that?

A. Yes.

LADY SMITH: Right. Okay, thank you.

MS INNES: And what impact did this number of people being round the table have on the effectiveness of the board over your time on it?

A. I felt that -- at first, that it wasn't a problem and therefore, you know, that -- couldn't see any reason to change that. I think as time went on, you realised that actually trying to keep that number of people informed and involved and playing a role is probably the reason why you don't generally have that many.

Q. Okay.

Now, if we move on to page 3, at paragraph 8, you talk about becoming a board member originally, and somebody had got in touch with you and said that Donaldson's were looking for board members. You noted your interest in that and then you met with Janice MacNeill, who was the principal, and Richard Burns, who was the chair, and somebody else.

And during the meeting, what sort of things were discussed?

A. I think we were talking about the -- first of all, the move of the school from its base in Edinburgh to Linlithgow and how the school hoped the future would play out in terms of remaining the national school for deaf education, but also looking at other opportunities, both in terms of working with the wider community, but also looking at whether there were other children too whose needs could be addressed at Donaldson's, because it was a new school and probably able to provide for more variety than they had been when they'd been at the old school here in Edinburgh.

Q. Okay. So they were giving you information about the school and the stage it was at?

A. Yes.

Q. Were they also asking you questions?

A. Yes. Yes, obviously asking about my experience in terms of working on committees, looking at the role as a board member, addressing issues around governance and finance and, you know, how I thought I could play a part on the board.

Q. Okay. And then you say that, after that, you were invited by Richard to join the board?

A. Yes.

Q. At paragraph 9, you say that, at the time, Janice MacNeill was the Principal, and you describe her

as being principal of the trusts:

'... she ran Donaldson's but there was also a headteacher, Mary O'Brien, who was headteacher of the school.'

A. Yes.

Q. What did you understand Janice MacNeill's role as principal to be?

A. I think because it was an independent school, so it didn't have a responsibility to a local authority as other schools might, that her role was more about liaising with Scottish Government, other agencies, and also overseeing the school in terms of what it was able to do, and I think that Mary O'Brien, in contrast, was specifically in charge of what went on on a day-to-day basis within the school and the children's education.

Q. And did Mary O'Brien report to Janice MacNeill or report directly to the Board?

A. Mary O'Brien reported to Janice. I think, however, it was supposed to be a more -- a closer relationship, if you like. You know, although Janice would have the final say, then Mary obviously had a very important part to play in terms of the everyday education of the children and knowing what -- you know, how their education was being managed.

Q. Okay. So when you say Janice would have the final say,

was she the person who had overall responsibility for the running of the school?

A. Yes.

Q. Okay.

Now, at paragraph 10, you say that there wasn't any training in becoming a board member, and you say that this was looked at later on.

Was there any induction process or anything like that?

A. There was a very brief induction process and an opportunity to -- I spent a day at the school and looked at all the different aspects within it and how they approached the service that was being provided, both in terms of the education, starting from the nursery, all the way through, but also, given that there were children who homed at the school during the week, then just to look at the residence as well and how they offered support to the children outside -- beyond the actual schooling, because children were living there during the week.

Q. Was there any safeguarding or child protection training for board members when you joined?

A. There was. I would -- I probably now, in hindsight, would say that was quite basic in terms of what was provided but, yes, there was.

Q. How was that training delivered, can you remember?
A. From staff within the school.
Q. Can you remember who delivered it?
A. I can't, actually.
Q. Okay.
And was it a session for all board members or was it just for you because you had just come onto the board?
A. Yes, I had a session with whoever it was -- I'm trying to think. I will let you know if that comes back to me.
But I think, as an ongoing thing, we did talk on the board about how we would need to update people's understanding with regard to safeguarding and child protection in the future.
Q. Okay.
Now, if we look at paragraph 11, you refer to the frequency of board meetings, and you say that they met monthly, which seems very frequent in comparison with what we might have thought might have been quarterly or perhaps about three times a year.
So when you were on the board, were you meeting every month?
A. I felt that was what I remembered. I wonder if it became monthly and so that's why I remember it as such.
Q. Okay.
Did the board have subcommittees?

A. Yes.
Q. Were you on any of those subcommittees?
A. Not at first, no.
Q. Okay.
When you did become a member of the subcommittees, I assume that those would have met separate from the main board?
A. Yes.
Q. So when you talk about monthly meetings, could it be that you're referring to meetings of the whole board plus committee meetings?
A. I think my memory is that it was monthly for the board but, as I say, that may be because towards the end, it was.
Q. Okay.
Now, you describe in the middle of this paragraph that around this time you say:
'... it was ... a time of change for schools that provide special education. Donaldson's was a national school [but] there was ... a push ... for children to be educated within their ... local schools.'
Now, I think we've heard evidence that this move to mainstream education was something that had been around, say, in the 1990s, but was this still an ongoing discussion at the time that you were on the board?

A. Yes, quite clearly. I think even from my past experience, I knew that within Scottish Parliament, we had had discussions about how far that had progressed in terms of mainstreaming education for children, and I think that by the time I then joined Donaldson's, it was still an issue that was being addressed.

I think not just in terms of a principle, but also the ability of children to attend mainstreams, and I think part of that was the development of, you know, things like cochlear implants that allowed children maybe to be able to attend mainstream schools, rather than the specialist education that was at Donaldson's.

I do think there was a different -- there were different views about that still.

Q. Yes, so going on over the page to page 4 and paragraph 12, you talk about that development, and you say:

'At Donaldson's they were looking at children coming to the school who maybe had additional needs, beyond being deaf, and they were thinking about how they could support these children.'

So that was a discussion that was ongoing at the time that you were on the board?

A. Yes, I think so. I mentioned earlier that the move to the new school that was purpose-built for children with

hearing issues, but also offered opportunities for children who had other additional needs too, and I think that was something that was being investigated and, you know, from the senior management within the school, there was clearly a view that there was an opportunity to provide for other children.

I think, as we recognised, you know, there were different needs for children whose needs weren't presently being addressed elsewhere. There was an opportunity for Donaldson's to step into that.

Q. And did you consider that the staff at Donaldson's had the requisite skills and experience to care for these children with more complex needs?

A. I think at the beginning, I didn't know, is the honest answer, that whether or not they did, although it was clearly something that we needed to -- we discussed. I think towards the end of my time at Donaldson's, I became more concerned that they weren't receiving the right training and support to be able to do that.

Q. Okay, that the staff weren't obtaining the right training and support? Okay. We'll come back to that theme as we go through your statement.

At paragraph 14, you say, at the beginning of that paragraph, that your performance as chair wasn't subject to regular external oversight and appraisal.

And you say that you would have expected the principal and maybe somebody else from the leadership team to sit down and talk to you about how you were fulfilling the role.

Why would you have expected the principal to be somebody who would be essentially appraising your performance?

A. I think because my feeling was, beyond that, there was no obvious person to do that. I think if I had been within a local authority setting, then I would've expected the local authority to take a role in that, but it very much felt like we were an independent school that, really, there wasn't anybody else to do it.

And I think that, from my position, my period of being chair was -- coincided with the period in which we didn't have the principal in school. So saying it didn't happen, I think that's why.

Q. Okay.

And if you think about it the other way round, as part of your role as chair, did part of that involve appraising -- ultimately it would have been the interim principal over the time that you were there. Did you appraise her?

A. Yes.

Q. Okay, and was that a formal process?

A. Yes.
Q. Okay.
You say at the end of this paragraph that:
'Despite repeated requests to Scottish Government for additional assistance, they were reluctant to become involved in what was seen as an independent school.'
What sort of requests for assistance were you making to Scottish Government?
A. I think it started from the beginning, at the stage at which the principal was suspended. We obviously met with Scottish Government at that stage to inform them what was happening and to keep them informed and then, over that period, we did have conversations about some of the difficulties -- the difficulty of bringing that suspension to an end, the difficulty of recruiting somebody on a temporary basis to take on that role -- and, while we received warm words, I wouldn't say we received a lot of assistance.
Q. So were you looking for financial assistance or practical assistance?
A. No, practical assistance.
Q. Okay.
At paragraph 15, I think you talk about there being a sort of annual one-to-one meeting with individual board members.

So did that happen when you were a board member and Richard Burns was the chair?

A. Yes.

Q. Yes. And what would the point of that meeting be?

A. It's really, I suppose, what you would understand in a workplace as being similar to an appraisal process, to give yourself a chance as a board member to say whether you felt that you were able to fulfil that role and if there were issues about other -- you know, other support you needed to do so. And so -- and likewise, for the chair then to say to the governors if there was something they felt that they could be doing that would be more helpful within the board process.

Q. Okay.

Further down this paragraph, you say that, for example, board members might ask for additional support if there was technical issues in relation to that, if it wasn't an area that you were experienced in.

And then you say:

'If there was an issue around care then we would look at bringing in people to provide additional information in relation to how that was being developed.'

I wonder if you can give us an example of what you mean here.

A. I suppose the one -- I suppose the one session I remember is somebody coming in to speak to us about how to approach the care in the residence and how that was being delivered in terms of not just practical elements but also the social side of being in a residence, rather than at home.

So it was people who had experience of how to provide those services that would come and talk to us about it, so that we could compare whether or not Donaldson's was offering that in the way it should have been or whether there were things that were needed to be done to improve it.

LADY SMITH: Mary, are you saying you have a memory of somebody coming to talk to you about this?

A. I do remember some -- very early on, actually, coming to talk about how residential care would be provided.

LADY SMITH: What were the skills or qualifications of that person, do you know?

A. Unfortunately I can't remember who it was, but I do remember it was somebody who -- it wasn't somebody from Scottish Government; it was somebody whose experience was working in providing care for children in a residential setting.

LADY SMITH: Okay, thank you.

MS INNES: Now, if we move on to page 5, and paragraph 17,

you refer there to there being a particular subcommittee of the board who was responsible for maintaining liaison with the school's residents.

And were you on that subcommittee or not?

A. No, I wasn't.

Q. Okay.

And then you talk at paragraph 18 about the work that they did, and you refer to one of the board members, Christine Roebuck, who was on that subcommittee, and she had been a former member of Her Majesty's Inspectorate of Schools.

A. Yes.

Q. Okay.

And just while we mention Christine Roebuck, if we hear evidence from Janice MacNeill that, when you took over as head of the board of governors, you told her that you wanted to get rid of Christine Roebuck and not Janice MacNeill, what's your response to that?

A. I don't really understand that, to be honest. I can't understand how she might have had that belief.

I -- particularly after the suspension of the principal, I felt I relied a lot on Christine Roebuck for support because of her knowledge as to how we -- you know, how we would continue in the school.

So I don't -- I really don't remember ever having

that conversation.

Q. Can you remember ever wanting to get rid of Christine Roebuck?

A. No.

Q. Okay.

Now, if we move on over the page, on page 6 and paragraph 20, you talk about your first impressions, and you say that your first impression was that the school was fine but you maybe lost a little confidence in that when you got to know the school itself a bit more.

And then you go on to say that the principal, Janice MacNeill, and the headteacher were finding it difficult to know whose responsibility some things were:

'I was surprised to find that their relationship hadn't arrived at who was responsible for what and maybe things were not running as smoothly as they might have been.'

Are you able to explain that a bit further? Was there a lack of clarity between the principal and the headteacher as to what their roles and responsibilities were, or was there a lack of clarity about the way in which they managed the other staff below them?

A. I felt, looking at their relationship, how they worked together, that there was a lack of clarity as to who was -- whose role things were -- who was responsible for

things. I think we spoke earlier about how my view was that the principal was the overall leader of the school and the headteacher was more concerned with the education. I -- in practice, I could see there was still some tension about that, and a tension about both of their experience as well, and I suppose it came through sometimes at the board meetings, when reports were being given, that you could -- you felt that they hadn't agreed what they were going to say before they came to the board and that we were still seeing there was some disagreement.

Q. When you say that there were tensions surrounding their experience, can you explain that a bit further?

A. I think Mary O'Brien had clearly always been in school education. I know that Janice MacNeill had previously been in further education, and I'm not sure whether -- I'm not sure whether that added to the kind of tensions there were, that their experience wasn't the same.

But I think when I first started, I thought that it was all fine, but felt that, after a while, I could see that it wasn't as clear-cut as maybe it should have been and, therefore, it allowed for tensions between the two.

Q. And you say at paragraph 21 that there wasn't any discussion at the board of governors about that strained relationship. Do you think other board members had

picked up on this strained relationship between the two of them?

A. I think, because you could sometimes see it at a board meeting, then, yes, I would be surprised if they hadn't.

Q. And what impact do you think that these tensions had on the effective running of the school and the residence for the children?

A. I suppose we wanted -- we felt that, as far as the children were concerned, that they would work together in a professional manner and that therefore it would not affect the children. I couldn't -- but clearly we knew there was some tension when we were in the confines of the board meetings.

Q. And do you think staff would have been alive to those tensions?

A. I don't know how they couldn't have been.

Q. You say at the bottom of this page that:

'[You] think the feeling was that it would get better and it was part of the transitioning, and once people understood their roles, things would get better.'

So what transitioning are you referring to?

A. I suppose I'm referring to the move, the physical move, from one school to another. I think that the school needed to -- within its new setting and what it was going to be able to offer in the future in terms of

education for the children and young people, then that needed to find its feet, and in that way felt that, you know, that those responsible, teacher -- headteacher and the principal, would also find their roles within the school and that, given -- I suppose my opinion at that time was that they were both very good at their jobs and, therefore, they should be able to come to an understanding of how that would best be delivered for the school.

Q. You say in this paragraph that there was still a feeling that they were doing a good job, and you refer to an HMI report, just prior to you coming on to the board, which hadn't flagged any concerns, presumably in relation to the tension between the two people.

A. Yes. Well, it definitely didn't refer to any of that. But, also, it wasn't a report that was cause for concern, so ...

LADY SMITH: That was the report published early 2012, I think, was it, after inspection at the end of 2011?

A. Yes, I think so.

MS INNES: And then, on page 7, you go on to talk about child protection, and you say that the subcommittee that Christine Roebuck led were in the process of looking at a review of child protection guidance.

So was that ongoing at the time that you joined the

board or was that something that started later?
A. It was ongoing. I think that -- I suspect it was a continually -- something that would continually be reviewed to ensure that it was effective and being followed.
Q. Okay.
And then if we go on over the page, on page 8, at paragraph 26, you say that:
'The thing to remember as a board member is that [you weren't] an expert in running a residential school, nor in child protection. As a board member you were dependent on what you were being told.'
So I suppose you'd get information from the executive and from inspections.
And you say if there had been concerns, they might have come from parents, and there was a parent member on the board, and that parent member might raise issues that they were aware of.
A. Yes, I think you know that, as a board member, one of the most important roles you play is to ask questions and to -- I suppose, to challenge the things you're being told, and I felt, as a board member and colleagues on the board, we were doing that. That -- you know, so I thought that was the right way to proceed and we weren't -- there was nothing, I don't think, at that

stage, that gave us cause for concern.

Q. Okay.

Then if we go on to page 9 and paragraph 30, you say there:

'I probably feel that during my time as chair, we didn't make the improvements we might have been looking to do because there were other issues to deal with, in relation to the management team.'

And then you go on to say that you were looking at some outreach work in relation to, I suppose, extending the services of Donaldson's to beyond its four walls, as it were.

A. Yes.

Q. But you weren't able to do that because of what was going on with the management team?

A. Yes. I think that it was one of the issues that the principal was very supportive of, was recognising that not all children would need to come to a school like Donaldson's, a national school where, you know, they may need to be resident during the week, but actually could stay at home and attend their mainstream school, but that there might be an opportunity for Donaldson's to provide their experience to the schools, either through the education authorities or directly to individual schools, to help them offer the necessary support to the

children and young people.

So that was one of the issues that we had started to look at, but I felt that because -- well, because we didn't have a permanent principal for most of the time I was chair, we never really made much progress on that.

Q. Okay.

And at the end of this paragraph, you say that:

'The outreach was supported by almost everyone, whereas the addition of children with needs beyond being deaf was resisted by some of the staff.'

Do you know why that was?

A. My understanding at that time was that some of the staff felt that, to go beyond the children who had -- the children with needs that they had previously understood was really going to be something they weren't able to cope with and, therefore, there was a reluctance to maybe see that develop further.

Q. Okay. And what account, then, was taken of the concerns of staff that they might not be able to deal with children with more complex needs?

A. I think I would say, from a board point of view, we recognised that concern. I think, because we weren't actually actively doing it, for the reasons I said earlier, because we hadn't been able to look at it because of the management's -- the temporary arrangement

that we had in place, that there was a feeling that we hadn't ignored their concerns, but because we weren't making any changes, then we hadn't picked up on them either, but there would be a need to address them, should that actually happen.

Q. So by the time you were on the board, were there children at Donaldson's already who had complex needs?

A. Yes.

Q. So were staff expressing concerns that they were unable to deal with children who were already at the school?

A. There was -- I was never aware of a concern about any individual children, more about the principle of extending it.

Q. Okay.

And you say that this issue about extending the provision, you think that was the cause of the main tensions between management?

A. I don't think it was the only concern, but I think it was -- it was a main concern.

Q. And are you talking there again about Janice MacNeill and Mary O'Brien or is it the wider management?

A. Not just them but other staff members as well.

Q. Okay, and did members of the senior management team have conflicting views as to the extension?

A. Yes.

Q. Okay.

Now, if we move on to -- if you just bear with me a moment. (Pause)

If we move on to page 12, and paragraph 39, you say that you weren't involved in recruitment of staff until the suspensions of staff that took place, which we'll come on to in more detail.

You were part of the subcommittee that employed the temporary principal, and then you were part of the panel that appointed Laura Battles as principal; is that right?

A. That's right.

Q. Okay.

Then if we look at paragraph 41, there's discussion about training, so staff training.

What level of oversight was there, at board level, of training and development policies or what was being planned in relation to staff training?

A. There was ongoing discussion about training that was necessary for the staff members. I can't actually remember the discussions we had about it, but in a place like Donaldson's -- schools generally -- then it was clearly something that we would be aware that there would be continual training for them in relation to the children they were responsible for.

Q. Okay.

And then you say that there was a session with the managers at the time, after the temporary principal had been appointed, and that was to look at the relationship between the board and the management. You say it was a development opportunity for the board, rather than the staff.

So what was that session -- what did that involve?

A. I said earlier how I didn't think we had made progress in relation to the provision of the schools and the extension of education.

The other area where I was concerned that we were kind of standing still really was in relation to development of the board. Some of the board members did retire over that period, and so we did bring in some new members, and I'm conscious, as in my own situation, that, you know, you need to be brought up to date with how -- what the board is focusing on, how it operates, and the relationship between a board and the management team is critical to making that work effectively.

So we had a couple of, kind of, weekend meetings where we had other people come in and talk to us about how the board could be most effective and most supportive of the staff within the school and just try to develop the relationship.

Q. Okay.

Then if we move on to page 14 of your statement, and paragraph 46, you talk there about the suspension of Janice MacNeill. And you note towards the end of the paragraph that there had been complaints, and we know that there was a grievance against Janice MacNeill, and then there was also an issue as to whether a child protection issue had been dealt with appropriately.

And at the end of this paragraph, you say:

'I think there were beginning to be complaints from teachers that had been reported and a possible grievance had been raised. I don't know if the complaints and grievances would have led to a suspension, if it hadn't been for the other things.'

Are you referring -- by saying 'the other things' there, do you mean the alleged failure to act appropriately in relation to a child protection concern?

A. Yes.

Q. Okay.

And you say that, for your part, it was a combination of the complaints and the grievance and the allegation in relation to the failure to act which led you to agree to the suspension of Janice MacNeill?

A. Yeah. I think, to be clear, in relation to the grievances, I don't think they -- they had been raised

informally and then they were -- staff were told that it would need to be formalised and that eventually happened. But in terms of time, that was very quickly on the back of recognising that there was a child protection issue that hadn't been addressed.

I'm not sure whether there wasn't time then -- there hadn't been time to investigate the grievances and, therefore, I'm not sure whether that would have led to any further action or not, but the fact that this other issue then arose was really, I think, then the driving force to say -- as to why the decision to suspend was taken.

LADY SMITH: Who suggested suspending her?

A. A member of the board.

LADY SMITH: Right. Was there then board discussion about it?

A. Yes.

LADY SMITH: And you were persuaded that it was the right way forward, were you?

A. Yes, but when it was first raised was prior to my taking over as chair.

LADY SMITH: Ah, right.

A. By the time the board had agreed it, I was then chair.

LADY SMITH: Okay, thank you.

MS INNES: And at the point of suspension or just prior to

the point of suspension, had legal advice been taken?

A. Yes.

Q. Okay.

We'll come back again to the timeline of that in due course, but just carrying on with your statement at the moment, if we can look on, please, to page 16 and paragraph 53.

You say that, during your time on the board, Donaldson's wasn't the subject of concern in relation to the way in which children were treated. You say that sometimes there were concerns about children with additional support needs having the right provision, but nothing beyond that in terms of concerns in relation to, for example, bullying, assaults, anything like that?

A. No. No. I think that -- just reading that, I'm not sure I said it very well. The concerns were that the children with additional needs, beyond being deaf, had not had their needs addressed previously, and how that was going to be taken forward was still an issue of discussion, sometimes even after the children had arrived. So it wasn't like it was settled before they arrived. But, you know, it was ongoing discussion. Not so much a concern, but really just updating the plan for their education.

Q. Okay.

LADY SMITH: But they were coming into the school without an up-to-date plan?

A. They would -- I believe that they would come with a plan. I think that sometimes that then needed updating as they started and there was a recognition of what their needs actually might be. So I suppose it's a question of how accurate the plan was when they first started.

LADY SMITH: And would that be a matter of planning not just for their education, but, particularly in the case of children who might be having to stay overnight, their overall care?

A. Yes. I don't know if I had said this, but we always had a great deal of confidence in the residential care that was being provided, both in terms of, you know, their practical needs but also their social needs. So I don't think that that was -- I suspect that it was -- part of the plan was different aspects of it would need updating as the children arrived.

LADY SMITH: Thank you.

MS INNES: And then, looking into the next paragraph, you refer to a complaint by a parent who, I think, you met with, which we'll again come back to in due course, but you say at paragraph 55 that, as you've just said, you didn't have concerns about children in the residence,

but then you began to have concerns about teaching staff being able to cope with the demands being placed on them by children with additional support needs, and you say you were beginning to feel more uneasy about the staff coping.

Why was that?

A. I think it comes back to the issue we discussed earlier about whether or not staff felt confident that they had the training and support that was necessary, and I suppose as time went on, I began to wonder whether or not they were receiving the training and support they needed and, yeah, it -- the tension was: is this because staff didn't want to do that or was it because they weren't being provided with the support and training they needed?

Q. And you say that there were more reports being raised with the interim principal being approached by staff or parents. So you detected a rise in people approaching her?

A. Yes. And, again, I think there was always an uncertainty as to whether or not that was because it was a new person, whether or not these were new concerns or whether they were concerns that had been raised previously, and maybe dealt with, maybe not dealt with, but because there was a new person in place, was there

another opportunity to raise them again.

Q. Okay.

Then over the page on page 17, you say that the temporary principal -- I think she worked with [PZY], who became [SNR] of the school?

A. Yes.

Q. And you say that the relationship between Margaret Burnell, I think, who was the temporary principal, and [PZY] was noticeably different to the relationship there had been between Janice MacNeill and Mary O'Brien.

What was noticeably different about it?

A. I think just the way they approached issues. Maybe it's -- I can only speculate that it's because Margaret Burnell was seen as being a temporary appointment that, you know, there was no pressure. This wasn't going to be the person in place all the time. But they clearly managed to work well together, they discussed issues that arose and they -- I think the unusual situation we found ourselves in maybe made all of us feel that you had to do -- you just had to be more co-operative and work harder at trying to do what was best.

MS INNES: Okay.

My Lady, it's close to 3 o'clock.

LADY SMITH: Would that be a convenient time to break?
MS INNES: Yes, my Lady.
LADY SMITH: I promised you a break at about this stage. Would that work for you if we took it now?
A. Yes, thank you very much.
LADY SMITH: Thank you.
(3.00 pm)
(A short break)
(3.10 pm)
LADY SMITH: Mary, welcome back. Are you ready for us to carry on?
A. Thank you, sure.
LADY SMITH: Thank you.
Ms Innes.
MS INNES: Thank you, my Lady.
If we could move to page 19 of your statement and paragraph 67, you talk there about inspections over the time that you were on the board.
And just to perhaps put this in context, you've mentioned that there was an inspection just before you came on the board, so that was in 2012?
A. Yes.
Q. And then we know that there were at least visits for an inspection carried out by the Care Inspectorate and HMIe in May 2013.

A. Yes.
Q. But the report in relation to that wasn't published until December 2013 --
A. Yes.
Q. -- because things had been delayed because of the suspension of Janice MacNeill and Mary O'Brien.
In terms of that inspection activity over the course of 2013, were you spoken to by any of the inspectors?
A. No.
Q. Okay.
I suppose, when visits were carried out in May 2013, Richard Burns was chair of the board of governors?
A. Yes.
Q. And do you know if he was spoken to by the inspectors or not?
A. I don't.
Q. Okay.
And then we know that there was a follow-up report in July 2014?
A. Yes.
Q. Can you recall being spoken to by inspectors from the Care Inspectorate or HMIe at that time?
A. Not individually, no.
Q. Okay.
When you say 'not individually', can you remember

them attending a board meeting, for example?
A. I don't remember them attending a board meeting. I have to say that's not to say they didn't. I don't remember them. However, I do remember getting some feedback, but not meeting with them.
Q. Okay. So feedback from the inspection findings?
A. I think through Margaret Burnell, actually.
Q. Okay.
And then we know that there was a report in December 2014, at which point you were no longer on the board?
A. Yes.
Q. Okay.
Now, if we move on to page 22 and paragraph 77, you talk there about a complaint that was made directly to you by a mother, and we understand that to be a person who is known to the Inquiry as 'Mary'.
A. Okay.
Q. And we understand that she had a meeting with you?
A. Yes.
Q. And can you recall what sort of concerns she discussed with you at that meeting?
A. I remember that she was concerned about her son at the time, about incidents that had occurred within the school. I'm having difficulty remembering the exact nature of those incidents, but I do remember she was

very distressed and felt that she had made representations to the school previously and wasn't satisfied with what had -- actions had been taken.

Q. And did you meet with her on your own or was there anybody else there?

A. I met with her on my own.

Q. Okay, and did you take a note of the meeting or not?

A. I did, yes.

Q. Okay. And did you share that note with anybody?

A. Yes, I then shared that note with Margaret Burnell and with PZY [redacted].

Q. Okay. Did you give them any direction as to what they were to do to follow up on this meeting?

A. I wouldn't phrase it as direction. I obviously shared the concerns that the mother had raised with me and felt that we maybe needed to add a bit more urgency to the response that was taking place, and from that time onwards, both Margaret and PZY [redacted] continued to have discussions with the mother about her son and how things could be resolved.

I was particularly aware that, you know, to the extent that PZY [redacted] had offered her her mobile number and had taken a couple of calls out of hours about raising concerns, so I think they were -- I felt that they were trying to respond as quickly and as

fulsome as they could.

Q. Then you say, at the end of paragraph 77, that you have seen the mother's statement to the Inquiry, and you say that you can only say that you read it with some dismay and feeling that you should have done more.

Why was that your reaction to reading her statement?

A. Because she'd clearly not -- she was clearly still unhappy with how her son had been treated, and I just wish that we'd been able to do something more to help and -- help her son in that circumstance. But from what I read in the statement, we hadn't achieved that.

Q. Okay.

And on reflection, what more do you think that you could have done?

A. I think I had -- have said elsewhere that, you know, my experience is not an educational one and, therefore, I was dependent on those with that experience to be able to put forward suggestions. I felt that the two people I've mentioned did try to do that, but you can only feel as -- you know, when I'm reading that letter, that: was there not something else that -- was there something else we could have considered? And I don't know what that would have been.

LADY SMITH: Well, this wasn't an educational problem, was it?

A. A social one then?
LADY SMITH: The mother was saying -- and I think she was saying the same thing to you -- her son was being regularly assaulted and injured by other children, apart from anything else.
A. Yeah, within the educational setting, sorry.
LADY SMITH: Yes, in the classroom --
A. Yes. Yes.
LADY SMITH: -- but it's to do with child protection, isn't it?
A. Yes.
LADY SMITH: Ms Innes.
MS INNES: Did you consider referring the matter yourself for independent investigation, so for example to the social work or police?
A. No, I didn't consider either.
Q. Why not?
A. I felt that if they were the avenues to be pursued, then those who were with him on a day-to-day basis would be in a better position to take that decision.
Q. Okay.
LADY SMITH: Did you talk to them about whether the matter should be taken further, for example, as Ms Innes suggests, to the police or to social services? Did you talk to other staff about that?

A. I don't remember speaking about the police. I do remember speaking as to whether or not there was any external body that could be asked to intervene, but I don't -- we didn't -- obviously didn't take that decision.

LADY SMITH: Was that to PZY that you said that?

A. It probably would have been to PZY and to Margaret.

LADY SMITH: Right.

MS INNES: Okay, moving on in your statement to page 26 and paragraph 95. So this is talking about the dismissal -- or suspension and dismissal of a member of staff in respect of something that had happened outside the school with a child who wasn't a pupil at Donaldson's. And you say at paragraph 95 that that dismissal occurred during your time on the board, just as you were about to become the chair. So we know that this person was dismissed in about July 2013. So that's when you were about to become the chair of the board; is that right?

A. Yes. I hesitate because I'm not sure whether the dismissal took place at that time or whether that was the suspension.

Q. Okay.

Had the board been made aware of the concern in relation to this staff member prior to his dismissal?

A. Yes.

Q. Yes, and was that shortly prior to his dismissal?
A. Yes. Again, I'm hesitating because when the board became aware that an incident may have taken place, they asked for a suspension while it be investigated. The issue was passed to the police, and I'm not sure whether his dismissal actually took place before or after the police investigation. So that's my hesitation.
Q. Okay.

Moving on in your statement to page 28 and paragraph 105, you refer there to a letter to Christine Roebuck from a group of four senior staff members, and this essentially was a complaint or a grievance in relation to Janice MacNeill; is that right?
A. Yes.
Q. And that letter was dated in April 2013, and you say that you remember it then being discussed at a board meeting that Janice MacNeill was present at?
A. Yes.
Q. Was that after this letter or after there had been some further investigation into it, do you remember?
A. I think it was before there was any further investigation.
Q. Okay, and what was Janice MacNeill's response to the fact that there had been this complaint?

A. I would say Janice was dismissive of it and believed that it didn't have any basis.
Q. And what was the board's view of the complaint?
A. I think at that stage the board asked for the matter to be raised in a formal process.
Q. Okay.

So, again, in terms of the chronology, we know that there was this letter to Christine Roebuck, and then I think we've also heard evidence that Christine Roebuck and a person called Mike Gibson had met with staff and recommended further investigation -- that was in May 2013 -- and that, shortly after this meeting between Christine Roebuck, Mike Gibson and staff members, an allegation was made that a child protection issue had not been followed up properly?

A. Yes.
Q. And then we know that there was a board meeting, and I wonder if we could look, please, at DSD-000000054, and page 3.

We see that this is minutes of a special meeting of the board of governors held at 6 o'clock on 12 June 2013 at HBJ Gateley offices in Edinburgh, and we can see that amongst the attendees is yourself.

A. Yes.
Q. And I think you can recall this meeting taking place?

A. I can.
Q. And it's noted that it was a special meeting. What was the purpose of this meeting?
A. It was to discuss the issue that had been raised with Christine Roebuck when she had met with staff, that there had been an incident that had occurred.
Q. Okay.

And then if we look down to the bottom of this page and on to the next page, we can see that a paper was presented, and there had been a sort of -- prior to this meeting, there had been an approval of immediate or early actions on 30 May 2013, which included the appointment of an independent person to investigate the complaint and then, if we go on over the page, the creation of an ad hoc committee to deal with the matter, the membership of the committee being Richard Burns, yourself, Graham Bucknall and Kim Pattullo.

A. Mm-hmm, yes.
Q. So can you remember meetings of that ad hoc committee then taking place?
A. Yes. I was aware of at least one meeting taking place.
Q. Okay.

And there was obviously also going to be this independent investigation.

Now, we know that PWV [redacted] wasn't suspended

until about July 2013, and Janice MacNeill wasn't suspended until August 2013.

A. Yes.

Q. Are you able to help us with what was happening between, for example, this board meeting and the ultimate suspensions?

A. The meeting took place and there was discussion about the incident that had been spoken of, and a decision was taken that that should be reported to the police and that he should be suspended at that stage, because it seemed, because it was the school holidays, that the principal decided that there wasn't a need for a suspension because there was nobody in the school.

However, I think at the meeting where the ad hoc group met, it was decided that that wasn't sufficient and that we needed to have a formal suspension. So the principal was then told that, yes, the suspension should take place.

Q. Okay.

So you refer to a meeting of the ad hoc committee; can you remember that meeting, where it took place?

A. It took place in the office of Richard Burns.

Q. Okay, and you're saying that there was discussion at that meeting that the member of staff needed to be suspended?

A. Yes.
Q. And then at a later stage, in August -- by this time you were chair of the board -- Janice MacNeill was suspended, and you said in evidence earlier there was legal advice taken on that, there was board discussion about that, and why were board members coming to the view at that stage that she ought to be suspended?
A. I think the board members were unhappy that action had not been taken previously in relation to this member of staff, because both the principal and the headteacher had known about it and they felt that there hadn't been sufficient -- there hadn't been any action and that, in fact, there had -- when the principal had been asked to suspend the person, there had been delay, and so it was felt that while the police investigation took place, that there was -- that the board had lost trust in the actions of the principal and headteacher and, therefore, until the resolution of the police investigation, they should be suspended too.
Q. Okay.
Now, you said in your evidence there that the principal and the headteacher had known about this issue with the staff member. Was it your understanding that they definitely had both known about it or was that something that was in dispute between them?

A. I felt they both knew about it, but I think there was some discussion about it.
Q. Okay. What was the basis for your feeling that they both knew about it?
A. The headteacher had been there at the time the incident took place and the -- and I had heard in the discussions that first told us about it as board members, that it had been confirmed that the headteacher and the principal had disagreed as to how to handle it.
Q. Okay. So it was on the basis of information provided to you at board level, okay.

Now, if we move on to page 35, and paragraph 128, you refer there to the period of time during which the investigation was ongoing.

So Janice MacNeill was suspended pending the outcome of this investigation but, as it turned out, the investigation took a long time. Why was that?
A. Janice MacNeill was suspended -- our view was that she would be suspended until the outcome of the police inquiry. The police inquiry progressed and we wanted Janice to come back and attend a meeting with the board members, but Janice submitted sick notes to say she was unable to do that.

And so we -- in the time I was there, we never actually managed to have a meeting with Janice to deal

with the suspension.

Q. Okay, and then if we go on to page 36, at paragraph 132, you say there that you also considered Janice to be a friend and you found the process to be very difficult.

What was the extent of your friendship with Janice MacNeill?

A. We were friendly. We had met a few times at the school for coffees and informal chat. We didn't socialise, as such, but I would have said we were on good terms.

Q. Okay, and you say:

'... I never hid the fact from anybody that we had been friends and we were professional enough to deal with the issues in front of us.'

A. I think it was important that fellow board members understood that I had known Janice previously to coming on the board, but that if there was an issue to be dealt with, they could have confidence I would respond in the way the board wanted.

Q. Okay.

Then on page 37, you go on to discuss an email from the governors -- it was written by Christine Roebuck to the Care Inspectorate in August 2013. So this was just immediately at the time of Janice MacNeill and Mary O'Brien's suspensions.

You go on, over the page, at page 38 and

paragraph 137, to say that you went to meet with Scottish Government at that time, and you said that you met with Scottish Government on a number of occasions over that next year, and you were often asking for assistance.

So is that the practical assistance that you were referring to seeking earlier?

A. Yes. Yes. I suppose it was to address issues like trying to get a meeting with Janice MacNeill so as to move things forward. It was looking at, because we weren't able to resolve that, trying to bring in a temporary appointment, and that was when we brought in Margaret Burnell. And also really just the longer it went on, to say how concerned we were that it was dragging on and felt that the school could not go forward in the way in which it should, because we had a temporary head and -- a temporary principal and a temporary member of staff acting as headteacher as well. So it was really just to try to get assistance to kind of move that forward.

Q. Okay.

And then you go on, on page 39, to refer to a letter from a member of the Scottish Government staff to yourself regarding an action plan dated 5 September 2013. So this was after the suspension of

Janice MacNeill.

And if we look down to a paragraph beginning 'There needs to be a recognition':

'There needs to be a recognition that the competence of the board is a critical factor in addressing the issues that exist. Are the board confident that, collectively, they have the right set of skills to take the school forward, and if so, how is this evidenced? Is there a need for the board to conduct a training needs analysis around their own development?'

And then there's reference to a member of the Care Inspectorate being involved and suggesting that this should form part of an action plan.

Then if we go on over the page to page 40, at paragraph 141, is this what then gave rise to the weekend meetings that you discussed about the role of the board and more training and suchlike?

A. Yes. I think my experience of being a board member is that I would have expected to have additional meetings anyway, but I think the fact that we were in these circumstances, we recognised that the board did have some work to do in terms of building its relationship with the management team and supporting the school and its operations. So, yes, we did have at least two weekend workshops where we looked at these issues.

Q. And then if we go on to page 42, at paragraph 148, we see reference to the joint inspection report that was then published in December 2013, which states that: 'There have been important weaknesses in governance in the school and in communication between the board, the school and the stakeholders.'

Would you agree or disagree with that conclusion?

A. I would agree to the extent that I think relationships could have been improved and that would have been to the benefit of the school. I think that sometimes, as governors, we felt not particularly well supported, that it was a difficult situation, and we did try to bring in outside expertise to those -- the meetings that we had, so as to try and build the abilities of the board as a unit. But I recognise that it was not perfect.

Q. And when you say 'not well supported', not well supported by whom?

A. I think we felt sometimes that we were a bit of an island, that -- you know, I might say it should have been Scottish Government or it should have been Care Inspectorate or whoever. I'm not really sure who it should -- I don't think there was anybody obvious who would have been offering that support, but maybe there should be.

LADY SMITH: Well, you were an independent school.

A. Yes. Yes. But -- we were an independent school and I suppose what I'm saying is I just think that you sometimes feel then that you are -- that there isn't the additional support you might need, particularly in circumstances that we were in.

LADY SMITH: Well, is that when the task for the independent autonomous organisation is to identify what help they need and who to ask for it, whether to use SCIS as their first port of call, for example, or other particular specialists who might be able to help them; but that didn't happen?

A. No. I think that -- because I can't remember who the advisers were that we invited to the meetings, then I think that there were occasions when we did have that expertise, but I think, looking back on it, just thinking that when the circumstances -- and these were -- it was fairly unusual -- then there wasn't the obvious support mechanism there that maybe would have been helpful.

LADY SMITH: Ms Innes.

MS INNES: If we could move on, please to, page 45 of your statement, and to a letter you refer to there which came from parents of a girl at Donaldson's. And I wonder if we could look, please, at CIS-000010347, and page 4 of that. This is a letter addressed to you dated

24 January 2014.

The parents say that they have contacted you following recent investigations concerning a member of staff. They refer to a formal complaint: '[They] urge you to consider looking into all of the issues raised, as we feel this highlights how incidents of various natures were either ignored or inadequately dealt with.'

They refer to concerns, having sought assistance, and by this time their daughter had left the school.

They say:

'We felt totally deflated and despair that staff were allowed to continue in their posts, working with such vulnerable children, and nobody wanted to listen to our worries and concerns or take action.

'We feel our experience highlights the typical way in which the staff conducted themselves and operated the running of the school from the very top down; including failure to provide answers, ignoring misconduct, bullying by staff members, breach of duty of care and threats to ourselves, of union action, from the headteacher.

'Please look into this for the sake of all those who remain at Donaldson's and those who may require additional help in the future.'

Now, prior to -- well, I think you were given a copy of this letter by the Inquiry team. Do you have any recollection of ever receiving this letter?

A. I cannot remember receiving this letter. I find it difficult that I wouldn't have remembered such a serious letter. So all I can say is I don't remember receiving it.

Q. If you had received it, what action would you have taken?

A. Clearly there are a number of issues within it but, you know, just looking at it here, you know, I would want to spend some time to consider what actions I might have taken. I don't remember receiving this letter. I do believe that if I had received it, I would remember it, because it is clearly a very serious situation.

Q. Do you think it likely that you would have tried to contact the parents or meet with them?

A. I may have done. I think -- obviously I met with one of the parents, and we've referred to earlier. That was partly because I had already met that mother before in a previous role and felt that, because the principal and the headteacher were suspended at that time, then I should. I'm not sure it was always for board members to meet with parents, but I think that something as serious as this that was addressed specifically to me,

then -- then I quite likely would have met with her.

Q. Was there any process in place for how the board would deal with a complaint that was made to it directly by a parent?

A. I'm not aware of a process.

Q. Okay.

If we could move on, please, to page 48, and to your final reflections, under 'Lessons to be Learned' at paragraph 169.

One of your reflections is that one needs to make sure that.

'... there are sufficient, well-trained adults around the children to provide the care and education that they need.'

So that's one of the reflections that you have, based on your time at Donaldson's?

A. Yeah, I think, as we discussed earlier, towards the end of my time there, I was beginning to have concerns that the issues that staff were raising were not being properly addressed -- had not been properly addressed and that there was more substance to it than had initially seemed to be the case, and I do think that was because of the changing needs of the children, and it was always going to be an ongoing process of responding to the different needs that children were presenting

with. But I think that that's -- what I've said is fairly obvious.

Q. And then you go on to say that:

'... there's a way in which children, parents and anyone else they come in contact with are able to raise concerns and have those concerns responded to appropriately. Nothing is brushed under the carpet, but things are taken head-on and rectified where they can be and procedures put in place to ensure they're not repeated.'

Do you think that things were being brushed under the carpet at Donaldson's?

A. I think that the issues that have been raised since suggest to me that we didn't always have the whole -- the full picture and, you know, I've just said to you that I don't -- I wasn't aware of how board members would proceed, for example, when complaints were -- would be raised by parents, and I think that that would -- needs to be clearer.

Q. Now, we know that you resigned from the board, I think, with effect from 24 November 2014, and we've heard evidence that, after Laura Battles was appointed principal, she very shortly thereafter raised concerns with Scottish Government, the Inspectorate and the board.

Can you recall those concerns being raised with you?

A. I wasn't aware of Laura's concerns until she had raised them with Scottish Government, Care Inspectorate, and we then -- there was a meeting held shortly after that.

Q. Okay. Who was at this meeting?

A. Officials from those two organisations, Laura Battles, probably PZY [redacted], myself and Graham Bucknall.

Q. Okay. I think we may have heard evidence that the decision had been taken to suspend PZY [redacted]. Can you remember that happening?

A. No, that happened just after I resigned, I thought.

Q. Okay.

And there was this meeting with various officials and matters then proceeded from there.

Why was it that you took the decision to resign round about that time?

A. I think I realised that issues had not been addressed that should have been, and that the standards within the school weren't what they should have been. I attended a meeting where officials from the Education Department addressed the staff and, actually, I didn't think we were as open with the staff about the complaints that were being raised, and I felt that I had spent the last 12 months just trying to hold things together and that, really, they now had a new head and -- a new principal,

sorry, and it would be a good time for them to also have a new head of the board, so as to take things forward.

MS INNES: Okay.

I've got no more questions for you, Mary, thank you.

LADY SMITH: Mary, I don't have any more questions either. I just want to thank you for being so patient with us and bearing up under, I appreciate, difficult questioning. We've pressed you on a number of matters, but I'm sure you appreciate why it's so important for us to do that. Children, and children who need residential care to be abuse free, lie at the heart of everything we're doing here.

So I'm now able to let you go --

A. Thank you.

LADY SMITH: -- and I hope you can now rest for the remainder of the day.

A. Thank you.

(The witness withdrew)

LADY SMITH: We've mentioned a couple of names this afternoon of people whose identities are not to be disclosed outside this room, and that is PZY [redacted] and PWV [redacted]. Please bear that in mind.

Otherwise, I think all we need -- somebody else?

MS INNES: I think your Ladyship might add RBK [redacted] who was mentioned this morning.

LADY SMITH: Oh, that's right, and [redacted] from this morning is also not to be identified outside this room.

And then all that remains is just to confirm tomorrow's plans, Ms Innes?

MS INNES: Tomorrow's plan is one witness giving evidence at 10 o'clock, and that's Janice MacNeill.

LADY SMITH: Thank you very much. Well, I'll rise until then.

(3.55 pm)

(The Inquiry adjourned until 10.00 am on Thursday, 2 October 2025)

I N D E X