

Thursday, 23 April 2026

1

2 (10.00 am)

3 LADY SMITH: Good morning, and welcome back to our hearings  
4 in Phase 10 of our case studies in which we're looking  
5 into the provision of residential care for children by  
6 local authorities in their own institutions and also in  
7 places that they used to place children in fulfilment of  
8 their statutory responsibilities.

9 Now, this morning we go back to a witness in person,  
10 who I understand is here and ready to assist us; is that  
11 right, Mr MacAulay?

12 MR MACAULAY: Yes, that is the case, my Lady. Good morning.  
13 And this witness is Kathleen Marshall.

14 LADY SMITH: Thank you.

15 Kathleen Marshall (sworn)

16 LADY SMITH: First question I hope is an easy one: how would  
17 you like me to address you?

18 A. Oh, just Kathleen is fine, thank you.

19 LADY SMITH: Thank you for that, Kathleen, and welcome, and  
20 thank you so much for coming along today to assist us  
21 with your evidence in relation to our specific interests  
22 here at the Inquiry.

23 You'll see that how we work is we have these reports  
24 of yours. Thank you very much. Hard copy's in the red  
25 folder. We've also got the screens to bring the

1 material up on screen for you.

2 A. Great.

3 LADY SMITH: We're going to explore not every line or word  
4 or page in the material, let me reassure you of that,  
5 but there are obviously some specific aspects that we're  
6 particularly interested in of your work and your  
7 thinking, if we may mine that, that we'd like to hear  
8 about.

9 I normally have a schedule that takes me from now  
10 until about 11.30 am. We stop for a morning break then  
11 and go through to the lunch break. If you want a break  
12 at any other time, please just say. It's not a problem.  
13 We can just pause or stop and do that. If you've got  
14 any questions at any time, just speak up, and if we're  
15 not explaining ourselves properly, just tell us, it's  
16 our fault and we'll ask things more clearly if we can.  
17 Is that all right?

18 A. That's fine. Thank you very much.

19 LADY SMITH: I'll hand over to Mr MacAulay, Kathleen, and  
20 he'll take it from there.

21 Questions from Mr MacAulay

22 MR MACAULAY: Yes, my Lady.

23 Good morning, Kathleen.

24 A. Good morning.

25 Q. Apart from the red folder, I think you've also brought

1 along your own notes?

2 A. Yes.

3 Q. Which, if you need to refer to them, then feel free to  
4 do so.

5 Can I begin, Kathleen, by confirming with you that  
6 you were born in 1953?

7 A. Correct.

8 Q. And the first document that you'll see in the red folder  
9 is I think what you tell us is a brief CV, which you put  
10 together, essentially for the purposes of the Inquiry.  
11 And can I just pick up some points from that.

12 The first thing you mention is that you are  
13 a retired solicitor, and your early experience was in  
14 local government?

15 A. Yes.

16 Q. Were you attached to one of the local authorities?

17 A. I was attached to -- I served my legal apprenticeship  
18 with Glasgow Corporation and finished it under Glasgow  
19 District Council, so I was there for, I think, four  
20 years and finished my apprenticeship, and then I had  
21 an 11-year career break to look after my children.

22 Q. Okay. But you go on to tell us that from 1989 to 1994  
23 that you were director of the Scottish Child Law Centre;  
24 is that correct?

25 A. That's correct.

1 Q. What did that work involve?

2 A. It involved a number of different streams. We operated  
3 an advice line. We provided education and training and  
4 we had an input into policy formulation. It covered the  
5 whole spectrum of issues relating to children and the  
6 law, from private family law to child protection issues,  
7 education, health, juvenile justice, things that  
8 interested children, like at what age they were allowed  
9 to work, what age you could leave children alone. So it  
10 was a very comprehensive overview of children's  
11 interface with the law.

12 Q. And you go on to tell us that you chaired the Edinburgh  
13 Inquiry and that report was published in 1999 and that,  
14 indeed, is why you're here today to speak to certain  
15 aspects of that?

16 A. Yes.

17 Q. You also say that you wrote a law model for Dundee  
18 University's Postgraduate Child Protection Certificate  
19 and you taught that in different places. Can you  
20 explain what that was?

21 A. It was a postgraduate certificate and it was  
22 multi-disciplinary, and we had -- it was really about  
23 child protection and the law. Traditionally,  
24 professionals, who are -- not legal professionals,  
25 working with children, they tend to know the law in

1 bits, like they'll know a section 44, a section 37, but  
2 they don't understand its context. So we used to try  
3 and give them an understanding of the broad field of the  
4 law and where all these categories fitted into it.

5 It was multi-disciplinary. We did groups across the  
6 country. I would say most of them were social workers,  
7 but we also had people from education, health, police,  
8 nursery staff, and it was quite a good opportunity to  
9 focus on case studies as well and to get dialogue  
10 between them, to help them to understand each other's  
11 perspectives and levels of knowledge. And I learned  
12 a lot from it as well, I have to say. It was a two-way  
13 thing.

14 And I think the value of all that kind of thing as  
15 well is that you also get the informal information.  
16 It's not just the questions and the cases they give to  
17 you in the formal parts, but quite often, if you're  
18 lining up for coffee or something, they'll tell you  
19 things or they'll give an opinion that they perhaps  
20 wouldn't say in a public forum. So it was a very good  
21 way of having an ear to the ground, I should say.

22 Q. And your position as a visiting professor at, I think,  
23 Glasgow Strathclyde and Glasgow Caledonian Universities,  
24 was that essentially to lecture on child-centred  
25 matters?

1 A. I did do some lecturing. It was really more of  
2 an honorary thing and they involved me. I helped  
3 supervise a PhD student in one of them. I did lectures  
4 occasionally, seminars, that sort of thing. I wouldn't  
5 say in terms of workload it was a huge drain on my  
6 resources.

7 Q. But you then, I think, spent a number of years as  
8 an independent child law consultant until you were  
9 appointed by the Queen to be Scotland's first  
10 Commissioner for Children and Young People?

11 A. Yes.

12 Q. And that was in 2004?

13 A. Correct.

14 Q. That clearly was an important appointment?

15 A. Yes.

16 Q. And can you just give us a sort of broad feel as to what  
17 the work involved?

18 A. It involved promoting the rights of children and young  
19 people in Scotland and raising awareness of them, making  
20 sure that people understood, for example, what rights  
21 were. People tended to trivialise it, say it's the  
22 right not to eat cabbage, it's the right to get pocket  
23 money, that sort of thing. And so actually trying to  
24 show that these were real things that were important for  
25 groups of children.

1           Also helping children understand their rights, and  
2           exploring different ways in which the content and the  
3           impact of rights can be made real for people.

4           I mean, when we did some work, for example, on  
5           leaving care, you know, young people would tell us:  
6           'Well, people did say something to me, but I didn't  
7           really understand it or take it in at the time'.

8           So we tried to provide information in ways that  
9           would be relevant and understandable by children and  
10          young people and professionals.

11          There was not a remit at that point to deal with  
12          individual cases. The remit of the office was  
13          strengthened after I left. But I could take up an issue  
14          and show individual cases that exemplified it and I used  
15          that quite a lot, and then I would draw up a report and  
16          I could lay a report before the Scottish Parliament,  
17          which was my main mechanism for raising these issues.

18          We did have an advice line, because no matter what  
19          you say about not having individual cases, people are  
20          going to phone you.

21   Q.   Yes.

22   A.   And we would give them information, refer them to other  
23          agencies, and we always went back, you know, for  
24          feedback and say, 'Did that help?' or, 'Is there  
25          anything you want to tell us?'

1 Q. And then you tell us that you were also a commissioner  
2 in the Time to be Heard project?

3 A. Yes.

4 Q. Along, I think, with Tom Shaw; is that correct?

5 A. That's correct.

6 Q. And you also were appointed by the Northern Ireland  
7 Justice Minister to the Youth Justice Review team?

8 A. That's right.

9 Q. What did that involve?

10 A. It was after justice was devolved to -- no -- I'm trying  
11 to make sure I'm not going to confuse two things.

12 I did have a brief involvement with Northern Ireland  
13 before that, which isn't in my CV. Lord Clyde had been  
14 appointed Justice Oversight Commissioner to monitor the  
15 implementation of the Good Friday Agreement and he asked  
16 me to do the youth justice part, but I'd only been doing  
17 it a few months when I was appointed Commissioner, so  
18 I had to drop that.

19 But it was about looking at those aspects of youth  
20 justice that were now being devolved from the Northern  
21 Ireland Assembly, as opposed to being reserved to  
22 Westminster, and looking at whether they respected all  
23 sorts of different standards. I mean, I can't -- quite  
24 honestly, I can't remember the exact terms of the remit  
25 now.

1           But we looked across the board at youth justice. We  
2 looked at what the law said. We looked at significant  
3 issues like delay, like the overuse of custody, like the  
4 crossover between youth justice and children in care,  
5 which was very high at that point. So it was a lot of  
6 those issues. It was new for Northern Ireland at that  
7 time to have responsibility for youth justice.

8 Q. And you say also that in 2012/2013 that you chaired the  
9 project advisory group for a pilot scheme for the  
10 guardianship of unaccompanied asylum seekers and  
11 trafficked children in Scotland. Can you tell me about  
12 that?

13 A. There was a growing issue with unaccompanied  
14 asylum-seeking children arriving in Scotland and it was  
15 an issue on which there was a lot of controversy and  
16 a lot of different feelings, and it's a very difficult  
17 system for young people to navigate when they arrive in  
18 an unknown country. And the pilot scheme was  
19 a partnership with Aberlour and the Scottish Refugee  
20 Council, as far as I remember, to provide guardians for  
21 accompanied -- young, unaccompanied asylum-seeking  
22 children to help them navigate their way through that  
23 process. And it also gave them some relationships.  
24 There was a room they could drop into, et cetera, and  
25 make friends, that sort of thing.

1           So it was trying to establish that and trying to  
2           show the value of a scheme like that, that actually  
3           helped them navigate the system.

4   Q.   And these would be young children?  What age range?

5   A.   No, they weren't very young children.  I think the  
6           youngest was -- I mean, this is just sheer memory,  
7           I can't remember -- I don't think there would have been  
8           any under about 14, 15, you know, going up to 18.  Most  
9           of them would have been in the teenage bracket.  I don't  
10          remember having very young children involved in it.

11  Q.   And the final point you draw our attention to is that  
12          you led an inquiry into child sexual exploitation in  
13          Northern Ireland in 2014?

14  A.   That's correct.

15  Q.   And can you just help me with that; what was the  
16          background to that inquiry being set up?

17  A.   There was a lot of concern about increases in child  
18          sexual exploitation, especially facilitated by modern  
19          means of communication, and particularly with reference  
20          to children in the care system, but certainly not  
21          exclusively.  And the system was not really geared up to  
22          respond to that.

23                 So we had to look at the nature and extent of child  
24                 sexual exploitation in Northern Ireland and there was  
25                 a particular -- there were some particular aspects of it

1           that I would say were unique to Northern Ireland and  
2           didn't apply to other areas.

3           But it was how also you made it clear that these  
4           young people, they would be groomed and enticed and  
5           trapped and -- but they were still children requiring  
6           protection. So I think the public often had  
7           a difficulty in accepting that. You know, there had  
8           been a view that young people were just out to have  
9           a good time and were doing what they wanted and they got  
10          into trouble and it was their fault, sort of thing. So  
11          it was trying to lay bare the mechanisms of exploitation  
12          and look for some ways in which that could be remedied.

13        Q. And you mention children in care and children in care  
14          are particularly vulnerable --

15        A. Yes.

16        Q. -- in that sort of context?

17        A. Yes.

18        Q. And perhaps the final point actually is to do with the  
19          Channel Island of Guernsey, that you reviewed children  
20          law --

21        A. Yes.

22        Q. -- for Guernsey?

23        A. Yeah.

24        Q. What did that involve?

25        A. Guernsey had introduced a very comprehensive and very

1 innovative children law some years before. They had,  
2 unusually for such a small jurisdiction, they had looked  
3 internationally at models that would be appropriate for  
4 their children law. And the biggest innovation they  
5 made was they adopted a version of the Scottish  
6 Children's Hearing system for their child protection  
7 system.

8 There had been some difficulties with that,  
9 basically because it was embedded within an English  
10 system, with staff who mostly came from England, and  
11 people didn't understand it. There were also issues  
12 about family law. There was a lot of concern about the  
13 role of what they called 'safeguarders' in family law.  
14 And fathers' groups who felt that they were being  
15 regarded unjustly, treated unjustly within the system.

16 So basically I had to look at the whole scope of the  
17 children law and assess the extent to which it was  
18 addressing the needs that had been identified at the  
19 beginning.

20 Q. And we take it, from all of that, your track record has  
21 very much been steeped in looking at rules, rights, in  
22 connection with children?

23 A. Yes. Rules, rights, and connection with children is  
24 actually the important part.

25 Q. Yes.

1 A. Because you have to really understand what the problems  
2 are at the personal level for the people you're talking  
3 about. If you don't actually listen to the children and  
4 the workers as well, then the rules and the policies and  
5 the guidance and all that don't necessarily make  
6 an impact, because the first step is not taken between  
7 connecting the experience and the views of children,  
8 workers, volunteers and parents as well, with the  
9 system.

10 There's a danger the system's content to just  
11 operate in isolation and be self-serving and they're not  
12 always informed by the experience of people on the  
13 ground, and I think that was one of my main focuses, was  
14 trying to make sure that those voices got through of  
15 children, young people, parents, workers, even people  
16 who were regarded as being difficult.

17 You know, I've come across that a couple of times,  
18 especially in Guernsey and in the Edinburgh Inquiry as  
19 well, where there were people whose perspectives were  
20 dismissed because they were difficult people and  
21 sometimes they were troublemakers, maybe sometimes --  
22 you know, maybe sometimes they actually were  
23 troublemakers, but we did try to make the point that  
24 even difficult people with a grudge can be right at  
25 times and that that should not be dismissed.

1           So I think it's -- that's where I really saw the  
2           basis of my work, was trying to connect real experience  
3           with the systems that existed.

4   Q.   And there is a recent article by you, I think it was in  
5           the Scottish Journal of Residential Child Care --

6   A.   Yes.

7   Q.   -- with the title 'Legislating for Love', which we'll  
8           look at perhaps later.

9   A.   Yes.

10  Q.   But just to take from you at the moment, did you bring  
11          to bear in connection with that particular piece of work  
12          your broad experience --

13  A.   Yes.

14  Q.   -- that you've just been telling us about?

15  A.   Yes, because it's a message that came consistently from  
16          young people.  You know, absolutely consistently.  And  
17          I've been at many events.  I remember one conference,  
18          I can't remember who ran it, where the children had done  
19          a kind of tableau based upon different meanings of the  
20          word 'love', and they were trying to clearly show that  
21          they knew that people feared the romantic love bit,  
22          but -- and with the connections with sexuality et cetera  
23          and abuse, but that there was another view that was  
24          important to them.

25                So it was really taken from that.

1 Q. Okay.

2 Now, then, if I can start and turn to the Edinburgh  
3 Report, I'll give the reference so it's on the screen.

4 A. Great.

5 Q. As I say, you can use either the hard copy or your own  
6 notes.

7 A. Great, thank you.

8 Q. That's at SGV-000024049.

9 And I think you tell us on page 2 of the report that  
10 this was, towards the bottom, this was actually the  
11 first inquiry --

12 A. Yes.

13 Q. -- to be held under the Children (Scotland) Act 1995.  
14 And that was an act that actually amended the 1968  
15 Social Work (Scotland) Act --

16 A. Yes.

17 Q. -- to have a provision whereby a local authority could  
18 cause an inquiry to be held in connection with something  
19 involving children?

20 A. Correct, yes.

21 Q. And insofar as your remit was concerned, if you turn to  
22 page -- or the background of that, rather -- to page 10  
23 of the report, towards the top, 1.2, do you tell us that  
24 at the background really was the conviction of two  
25 former care workers in December 1977 in connection with

1 Clerwood and Glenallan?

2 A. Correct.

3 Q. And so far as the remit was concerned, you set that out  
4 at 1.2, and you say at 1:

5 'In relation to the recent High Court case to  
6 ascertain if there was any allegation raised prior to  
7 the commencement of the police investigation, and if so  
8 to determine if there were any reports which were not  
9 acted upon and if so, why.'

10 So that was certainly an important area that you  
11 were looking at?

12 A. Yes.

13 Q. Of course, you -- the remit was far broader than that.

14 A. Yes.

15 Q. But in relation to Glenallan and Clerwood, that was  
16 a particular aspect of it?

17 A. It was.

18 Q. And you were also going to view current practices, that  
19 was part of your remit, and you were to make  
20 recommendations. And I think eventually you made  
21 135 recommendations?

22 A. Yes.

23 Q. So far as your methodology is concerned, if you look at  
24 page 12, at paragraph 2.3, do you tell us there that  
25 your approach was going to be broadly along the lines of

1 the Children's Hearing approach?

2 A. Yes.

3 Q. Why did you pick that particular model?

4 A. We were not -- I mean, there had been a police  
5 investigation. There had been convictions. There had  
6 been not proven verdicts. There was another person  
7 whose prosecution was never proceeded with. And we felt  
8 it was not for us to try to replicate a judicial model  
9 that had got so far that we -- the Children's Hearing  
10 model was one the three of us were very familiar with,  
11 the three of us on the panel, and its focus was the  
12 welfare of children, and it also operated on the balance  
13 of probabilities as a standard, rather than the criminal  
14 standard of beyond reasonable doubt.

15 And we felt that given that the focus was on the  
16 welfare of children and children not being able to speak  
17 and staff not being able to speak, a process that was  
18 actually focused on hearing people was more appropriate  
19 for this than one that was more inquisitorial.

20 And I think that was borne out, because a lot of  
21 the -- the young people, the former residents who spoke  
22 to us, many of them did not want to go through another  
23 formal investigation with being asked questions and not  
24 being in control of the proceedings, and they welcomed  
25 the opportunity of being able to speak to us in a more

1 relaxed atmosphere. And the staff as well were willing  
2 to look back on their practice and reflect critically on  
3 it.

4 And I think that was actually, from our point of  
5 view, was an important thing, because we wanted to learn  
6 from it and we wanted them to look back and tell us what  
7 they thought might have been done differently and why  
8 things were overlooked at that point, that hopefully  
9 would not be overlooked now.

10 So that was the whole reason we did it. We weren't  
11 looking at culpability. We obviously had to make  
12 a judgment on whether the response to what reports that  
13 were made was appropriate, and we did that very  
14 deliberately with each one. But we weren't looking at  
15 individual culpability.

16 Q. But you do tell us on page 14, towards the top, that  
17 half of the former residents who had given evidence in  
18 the High Court trial --

19 A. Yes.

20 Q. -- did actually come to speak to you?

21 A. That's correct.

22 Q. And you tell us in the following paragraph, 2.13, that  
23 you also spoke to a limited number of former residents  
24 who had not given evidence at the trial?

25 A. Yes.

1 Q. So you had quite a significant cohort --

2 A. Yes.

3 Q. -- of former residents to --

4 A. We did, yes.

5 Q. On page 15, at 2.19, you return to this point about the  
6 residents -- half the residents named in the indictment  
7 coming to you. And did you gather from them that the  
8 trial itself was a harrowing experience?

9 A. Oh, yes, I think it was. It was bound to be a harrowing  
10 experience, and I think there is this -- given that  
11 these are people who were not believed as children, to  
12 be interrogated in the way that a trial has to do, to  
13 have your evidence questioned, and then have it to --  
14 determined in such a high standard as beyond reasonable  
15 doubt, you know, makes people feel that they're not  
16 being believed again. And I think one of the things we  
17 were trying to do and in some of the working of the  
18 report, we tried to make it clear that we believed them  
19 about what had happened, so we weren't going to test it  
20 in that way, you know.

21 And their evidence was so consistent. I mean,  
22 I think one of them, it may have been a Dean House one,  
23 but I think she'd raised it several times, you know.  
24 Since being a child, she'd raised the matter in  
25 different ways and yet there was no conviction, but we

1           believed her. And we felt it was important for us to  
2           say that.

3    Q. And I think you touch upon this in the report in  
4           relation to Brian MacLennan. He was convicted by the  
5           jury of two serious charges, I think, of rape?

6    A. Yeah.

7    Q. But on appeal --

8    A. Yes.

9    Q. -- he was successful because the Moorov doctrine at that  
10           time did not extend to cover those two charges?

11   A. Yes.

12   Q. But nevertheless the jury did convict?

13   A. Yes.

14   Q. And you thought that was important?

15   A. I thought it was important and I know the person, the  
16           resident involved, was distraught, you know, when the  
17           appeal overturned the conviction, because she felt she  
18           wasn't being believed again, and she phoned me actually,  
19           and I think, you know, that's --

20   Q. But it was really a legal issue?

21   A. It was a legal issue and that was what I had to try and  
22           explain to her, that it was a legal issue, that the jury  
23           had believed her, and basically we believed her as well.

24   Q. Now, if I take you to page 18 then of the report, you  
25           set out the part of the remit that you were looking at

1 in connection with the past and particularly to  
2 Glenallan and Clerwood.

3 You tell us at 3.3 that you did visit and interview  
4 Gordon Knott in prison?

5 A. Yes.

6 Q. But you did not interview Brian MacLennan?

7 A. No, that's correct.

8 Q. Why did you make that distinction?

9 A. Because Brian MacLennan, he still had the appeal pending  
10 at that point and he had never admitted wrongdoing,  
11 whereas Knott had no appeal pending and had admitted  
12 wrongdoing, although he disagreed with the extent to  
13 which it had happened.

14 Q. Yes, and I'll look at that shortly.

15 And there was a third accused who was in fact  
16 acquitted --

17 A. Correct.

18 Q. -- on two charges. But that was in connection with  
19 Dean House, not Glenallan or Clerwood.

20 A. Yes.

21 Q. Okay. On page 20, you provide some background  
22 information in relation to Gordon Knott.

23 A. Yes.

24 Q. And at 3.13 you say that:

25 'This accused had admitted certain offences to the

1 police and because of that we felt able to interview him  
2 in prison.'

3 And I think, and we'll look at the note of the  
4 meeting, I think he accepted to you also that he had  
5 abused five children?

6 A. Yeah, I can't remember the exact number, but, yes.

7 Q. You provide us with some background about him, and is it  
8 the case from what you say there that he was only  
9 19 when he went to work at Clerwood?

10 A. Well, yes, that's what the report says, aye.

11 Q. Yes.

12 LADY SMITH: I think that would fit the dates we have,  
13 Mr MacAulay, for his employment there.

14 MR MACAULAY: It would.

15 And you say there that after an interview he was  
16 appointed to a post at Clerwood, designed as 'nursery  
17 assistant'?

18 A. Yes.

19 Q. That was from 1973, and then, in 1974, this designation  
20 was changed to 'assistant housefather' and, in 1976, he  
21 became a housefather. And then in November 1977 he was  
22 appointed as a depute at Glenallan. So he moved from  
23 Clerwood to Glenallan in 1977?

24 A. Yes.

25 Q. Just looking at that, did he have any qualifications, so

1 far as you could see, to take on the roles that he took  
2 on at Clerwood?

3 A. Not as far as I recall, but I would have to check back  
4 on that. Certainly being aged 19 when he worked there.  
5 And as I say, he started off as a nursery assistant.  
6 I mean, in those days it was felt that the task of  
7 looking after children in care was basically a domestic  
8 task, that more or less anybody can do. So people  
9 weren't looking for qualifications and a lot of staff  
10 were unqualified. And that's my understanding. I don't  
11 have any other further information before me to back  
12 that up, but that's --

13 Q. It certainly looks that he's quite young --

14 A. Yes.

15 Q. -- going into that very responsible type of role?

16 A. Yes, yes. But people didn't necessarily regard it like  
17 that at the time, I think. You know, as I say, they had  
18 a -- Clerwood, I think as you said, had a very  
19 hierarchical structure and I think it was almost like  
20 a medical model really, you know, and so that -- I mean,  
21 I've heard stories of other units at that time, where  
22 rows of babies in cots and things like this. The sort  
23 of thing that we would associate with, you know, Eastern  
24 European countries in the bad days, that sort of thing.  
25 So it was a completely different view of what care

1           involved for children and young people.

2   LADY SMITH: On these dates, and we've no reason to think

3           they're wrong, Kathleen, by the time he's about 22 he's

4           a housefather.

5   A. Yes, yes.

6   LADY SMITH: That still seems very young --

7   A. It does.

8   LADY SMITH: -- even judging by the approaches in the early

9           1970s, doesn't it?

10   A. Yes. I don't know if that was out of -- I don't know

11          whether in the context of the 1970s that would have been

12          regarded as unusual, you know. We didn't look at that.

13          But, you know, just looking at it in isolation, it

14          certainly seems to be very young, but I suppose the

15          question is, as assistant housefather, where did he sit

16          within that hierarchy, you know, and what was actually

17          expected of him with that role.

18   LADY SMITH: But by 1976 he was a housefather.

19   A. Yes.

20   LADY SMITH: And the age range for the home that we've heard

21          about was such that it included teenagers.

22   A. Yes.

23   LADY SMITH: They wouldn't be far away from him in age.

24   A. Yeah, yeah. No, it sounds very far from ideal and

25          it's -- it is quite astonishing to look at things in the

1 past that were regarded as acceptable then. As I say,  
2 what I don't know is whether that was out of the  
3 ordinary or whether that was just run-of-the-mill,  
4 because I think the designations and everything were  
5 changing as well, the structures were changing, so --

6 MR MACAULAY: As far as Brian MacLennan was concerned, then,  
7 you talk about him on page 21 and in particular at 3.18,  
8 and there you provide us with some information about his  
9 background.

10 A. Yes.

11 Q. That he had left school at 15 with no qualifications,  
12 that he trained as a plumber and he worked in manual  
13 occupations until 1971 when he and his wife emigrated to  
14 Australia?

15 A. Yes.

16 Q. And when you say there, he appeared to have worked with  
17 young people with learning difficulties, can you  
18 remember what the source of that information was?

19 A. I cannot remember the source of that, whether it -- I  
20 had -- no, sorry, I cannot remember the source of that  
21 information.

22 Q. In any event, on returning to Scotland he was appointed  
23 third in charge at Clerwood, and although he gave his  
24 Australian employers as referees and a request for  
25 a reference was sent to them by Lothian Region, no reply

1           appeared to have been received?

2    A.   That's correct.

3    Q.   So they had no real confirmation --

4    A.   No.

5    Q.   -- as to what his employment background had been?

6    A.   No, and I think that is part of what seemed to be

7           a general issue about the time, about references, that

8           they don't really seem to have been taken very

9           seriously. They sometimes weren't followed up and that

10          they were also given in a rather cavalier manner.

11          I'm not sure if people always really valued them as

12          being the truth, because there was some understanding

13          that people would give good references to get rid of bad

14          people.

15   Q.   Well, do we not have an example of that here in fact?

16   A.   Yes.

17   Q.   A reference was given in connection with Mr MacLennan --

18   A.   That's correct.

19   Q.   -- which was positive, and really the background was not

20          quite so positive.

21   A.   That's right. That's right, and we'd regard -- that was

22          one of the issues that we had identified as being wholly

23          inappropriate in the report.

24   Q.   But the impact of that reference was that Mr MacLennan

25          went from Clerwood to Dean House?

1 A. Correct.

2 Q. Where he was an abuser?

3 A. Absolutely, yeah.

4 Q. You mentioned the interview with Gordon Knott. Can  
5 I just take you to the note of that interview, and the  
6 reference for that is at EDI-000005905. Now that should  
7 come up on the screen.

8 If you could turn to page 2.

9 Although, perhaps while we have it there, the  
10 heading is:

11 'Notes of a meeting ... with Gordon Knott in HM  
12 Prison Peterhead, 20 July 1998.'

13 A. Yes.

14 Q. That's where it took --

15 A. Now -- yes. I wasn't at that meeting as you may notice.  
16 It was Alan Finlayson and Cathy Jamieson.

17 Q. That's the initials we see there?

18 A. Yes.

19 Q. If you turn to page 2, it's quite difficult to read  
20 because of the colour of the page, but he provides some  
21 information about his background, which we've looked at  
22 to some extent, and it's then been noted:

23 'He did not apply to work in the residential field  
24 because of the opportunities for sexual gratification  
25 which such work presented. Indeed he had not wished to

1 work in the residential area. He advised us that he had  
2 a long-standing relationship with a childhood friend but  
3 no one, including his parents, were aware of this. He  
4 accepted that after his first abusive behaviour to  
5 a young resident, he experienced no sense of guilt or  
6 remorse.'

7 So that was his position?

8 A. Yes. That was his position, yes.

9 Q. 'He recollection (sic) was that he had enjoyed the  
10 experience and that had led him to repeat it.'

11 A. That's right.

12 Q. And it's been noted:

13 'The only potential inhibitor was his fear of being  
14 caught.'

15 A. Correct, yes.

16 Q. And I think if we scroll downwards, the names have been  
17 redacted, but there are five names there and these are  
18 the names of children that he accepted --

19 A. Yes.

20 Q. -- that he had abused, I think. I think it was two  
21 at --

22 LADY SMITH: Two at Clerwood and three at Glenallan.

23 MR MACAULAY: Two at Clerwood and three at Glenallan.

24 You go on to say -- or the note goes on to say, as  
25 you've already mentioned, although he accepted that he

1 had abused these children, he didn't accept the full  
2 extent of the abuse?

3 A. Yes.

4 Q. And if we just read four lines from the bottom:

5 'One particular relevance of this is that he  
6 suggested throughout that there was little awareness of  
7 the incident of sexual abuse in the profession ...'

8 So would that be correct?

9 A. I think -- I think that is correct. Especially if it  
10 was -- if there was awareness, it was probably some  
11 exotic thing that had nothing to do with you, you know?  
12 A number of staff members had told us that they just  
13 didn't believe that somebody like the person they knew  
14 could have done that to children. And that is also  
15 evidenced by the responses that the children got when  
16 they did tell somebody, you know: 'Don't be silly, go  
17 out and shut the door', and, you know -- or just, people  
18 did not generally believe what the children were saying.

19 So I think it was -- I think it is true to say that  
20 the awareness and the prevalence of it was not high in  
21 people's minds at that time.

22 Q. And if we go on to page 3, second paragraph, we can  
23 read:

24 'The offences against [a particular boy] were  
25 perpetrated on the top floor of what was actually the

1 staff headquarters in Clerwood. [This] was the first  
2 child he had abused.'

3 So he identifies his first victim.

4 A. Yes.

5 Q. 'He enjoyed the experience and repeated it.'

6 And it goes on to say:

7 'The incident [with another boy] had not taken place  
8 at Clerwood but on perhaps three occasions out of seven  
9 days when some children from the unit and he were on  
10 holiday in a cottage ...'

11 Then:

12 'The offences in respect of [another two boys]  
13 occurred in Glenallan. Those in respect of [another  
14 boy] took place when the unit was on holiday.'

15 So it would appear that he took advantage of being  
16 on holiday, for example, to abuse children, whether it  
17 was -- probably I think in a caravan?

18 A. Yes, well there would be -- yes, the routines would be  
19 different, et cetera. Probably fewer eyes, et cetera,  
20 on what was happening.

21 Q. Now, you have a section, I think, starting at  
22 paragraph 3.22, that's the bottom of page 22, where you  
23 have a section dealing with life in care generally; is  
24 that right?

25 A. Yes, correct.

1 Q. And over the page, on page 23, you provide us with  
2 a general description of Clerwood in the first instance  
3 and you are looking at Clerwood first of all, and we've  
4 seen a photograph of that. And you tell us about the  
5 background, that it was run by the local authority and  
6 could accommodate 24 to 30 children, from babies up to  
7 age 15 or 16. So there's a wide range of ages?

8 A. Yes.

9 Q. At 3.24 you tell us that the officer in charge was only  
10 25 years old when appointed to this post. Again, that  
11 looks rather young for such an important position?

12 A. It does seem young, but as I say, I don't know how it  
13 would compare with other units at the time.

14 Q. And at 3.25 you say that Knott and MacLennan were  
15 already in post at Clerwood when the new officer in  
16 charge arrived and that MacLennan was officially third  
17 in charge. Was he then senior to Knott?

18 A. Was he -- he would be -- now, was he not junior to  
19 Knott? What was Knott at that point?

20 LADY SMITH: I think MacLennan may have been -- he's older  
21 than Knott.

22 MR MACAULAY: He was an older person.

23 LADY SMITH: But the question is rather who had charge of  
24 whom in such hierarchy as there was in this small group  
25 of staff.

1 A. MacLennan was third in charge and I can't remember  
2 actually, I'd have to look back at what Knott's  
3 appointment was at that point.

4 MR MACAULAY: Okay. But you go on in paragraph 3.25 to talk  
5 about the relationship between MacLennan and what you  
6 refer to as the new boss, the officer in charge, and  
7 there was a problem in particular in connection with how  
8 Mr MacLennan was approaching child care and how the new  
9 man wanted to approach child care?

10 A. Yes.

11 Q. Can you elaborate upon that?

12 A. Can I just read this again?

13 Q. Yes.

14 A. It's 3.25 you're looking at?

15 Q. Yes.

16 A. (Pause)

17 I'm not sure I can recall the actual detail that was  
18 behind the wording in 3.25, but there were indications  
19 that MacLennan did have a very authoritarian approach  
20 that was more about control than care and the young  
21 people. In fact, you know, there was one young woman  
22 who was abused by both of them and described very  
23 poignantly how -- she said, you know, strange wording,  
24 but Knott was kinder in his abuse and MacLennan was  
25 a bully.

1           So I think his -- the way he operated did reflect  
2           the old, more authoritarian approach, and it's  
3           understandable that the new approaches that were coming  
4           in, which were more relaxed and more relational, would  
5           not have suited him and I doubt he could actually have  
6           embraced that.

7   Q.   But there's also mention in this paragraph about  
8       MacLennan's drinking?

9   A.   Yes.

10  Q.   And this was known to the officer in charge?

11  A.   Yes.

12  Q.   And this is the background to the officer in charge  
13       providing Mr MacLennan with a reference?

14  A.   Yes.

15  Q.   Which, I think you tell us, when you faced him up with  
16       it, that he regretted doing?

17  A.   Yes.

18  Q.   Is that --

19  A.   Yes, I think so.  Yes, the whole alcohol thing was -- it  
20       was one of these instances as well where it became clear  
21       that the way people responded to that kind of situation  
22       was focused more on the needs of the adult, rather than  
23       the needs of the children.  I mean, many of these  
24       children were in care as a result partly of their  
25       parents' abuse of alcohol, and yet they were put in

1           there in the charge of someone else who abused alcohol  
2           and who exposed them to danger. You know, he would  
3           drive under the influence of alcohol as well.

4           So -- yes, so that was obviously -- as I say, that  
5           was one of the instances where we saw that procedures  
6           would kind of shift. There might be an initial  
7           understanding of the vulnerability of the children in  
8           that situation, but employment law things would come  
9           into play, and in light of the kind of philosophy at the  
10          time, I think employment law was generally becoming more  
11          understanding of the difficulties that employees faced,  
12          but that acted to the detriment of the children, whose  
13          welfare was not taken appropriately into account.

14        Q. Then if we move on, page 24 to page 25, paragraphs  
15          beginning at 3.28, you provide us with some insight into  
16          what you were told by some of the children that you  
17          interviewed?

18        A. Yes.

19        Q. If we just take this as an example, at 3.32, page 25,  
20          and can I just point out that you have anonymised the  
21          children by giving them letters.

22        A. Yes.

23        Q. What you say here:

24                'Child D, who was child A's brother, was aged  
25                between 5 and 9 when abused by Knott at Clerwood.'

1           And you go on to say:

2           'Like many of the others, he did not understand at  
3           first that he was being abused.'

4           And was that one of the messages that you got from  
5           these children?

6   A.   Very much so, from the younger children, that they  
7           didn't understand -- I mean, they wouldn't even have had  
8           the language, you know, to talk about these things and  
9           they wouldn't have understood that it was anything other  
10          than normal. I think especially as from a few of the  
11          children there came the feeling they thought other staff  
12          must have known and therefore be condoning it. So, you  
13          know, what reason did they have to think that this was  
14          something unusual that shouldn't have been happening?

15          And I have heard that, not just from the Edinburgh  
16          inquiry, but in various other contexts as well, that  
17          children did not know that it was wrong. And in fact  
18          sometimes, when it stopped, they wondered what they'd  
19          done wrong, because they were made to feel special in  
20          this relationship and they didn't know anything  
21          different.

22   Q.   And if we look at this -- what this person is saying,  
23          then the abuse started really when he was very young?

24   A.   Yes.

25   Q.   And clearly would not understand --

1 A. No.

2 Q. -- what was happening?

3 A. No, it was just normalised from the child's point of  
4 view.

5 Q. And moving on to page 26, at 3.39, what you've recorded  
6 is this:

7 'Sexual abuse was not the only issue at Clerwood.  
8 Some of the former residents talked about being forced  
9 to eat food out of a trough if they misbehaved. The  
10 trough contained a mixture of all kinds of food and  
11 ingredients. If they didn't eat it, their heads and  
12 faces were pushed into the food on trays. Indeed, one  
13 former resident also recalled being beaten with a stick  
14 and dog leash by a member of staff.'

15 So that's information you gleaned also from some of  
16 the accounts that you listened to?

17 A. Yes, and it very much reflects things that were  
18 happening, as you will know from your previous --

19 Q. Yes.

20 A. -- tranches of evidence here, things that were happening  
21 in residential care in other establishments as well.

22 Again, it was normalised abusive behaviour  
23 throughout the residential care sector.

24 Q. You then go on to look at Glenallan and you provide us  
25 with a general description, and we think we've heard

1           about this, that it was a modern, at that time,  
2           purpose-built building. It was run by the local  
3           authority and accommodated 12 children, mainly in family  
4           groups of three or four.

5           So this was a different approach to residential  
6           care?

7   A. It was, yes. It was a move away from the institutional  
8           approach to something that recognised family units as  
9           well.

10   Q. And you tell us that at the time of the abuse, the ages  
11           ranged from about 5 to 13, is that correct?

12   A. Yes.

13   Q. And three of the children, including two who were  
14           related, had special needs?

15   A. Yes.

16   Q. Now -- and I think Gordon Knott may have accepted this  
17           when he was spoken to: was it known within Glenallan  
18           that he had a favourite child?

19   A. Yes, it seems to have been. And other staff knew that  
20           he had a favourite child, but he said other staff  
21           members had favourites as well, although he didn't imply  
22           they were abusing them. But again, that's one of the  
23           things that makes the children so vulnerable is that  
24           they want that special relationship, and then when it's  
25           exploited, you know, it's an absolute travesty.

1           But, yes, I think other staff knew that he was -- he  
2           had a favourite. And it's just when you read the  
3           circumstances now about cuddling up in a sofa with  
4           a blanket, then going to bathe them, you know, all sorts  
5           of alarm bells ring, but they didn't ring at that point.  
6    Q. And that's what you tell us at 3.46, you set that out,  
7           that the staff were aware that he had one particular  
8           favourite?  
9    A. Yes.  
10   Q. And that the lights were put out and Knott and his  
11           favourite would cuddle and hug on the sofa?  
12   A. Yes.  
13   Q. 'At the end of the film, Knott would take the child  
14           upstairs for a bath.'  
15   A. Yes. It sounds shocking now.  
16   LADY SMITH: And the boy was 12 at the time.  
17   A. The boy was 12, that's right. It sounds shocking that  
18           nobody would have thought that there was something wrong  
19           with that, and, you know, we don't know, was there  
20           a raised eyebrow, was there a what; but for whatever  
21           reason, people did not pick up, or even, as far as  
22           I'm aware, even challenge him on it, you know.  
23   MR MACAULAY: But you do say at the end of that paragraph  
24           that staff were embarrassed --  
25   A. Yes.

1 Q. -- at the extent of Knott's closeness of contact with  
2 the boy and you go on to say:  
3 'The boy appeared to be vying with Mrs Knott for her  
4 husband's affection.'  
5 A. Yes.  
6 Q. Does that indicate the extent to which he had  
7 essentially been brainwashed by Knott into what was seen  
8 as normalised behaviour?  
9 A. Yes, it's hard to say. I'm not sure about the  
10 background -- whether we can say he was brainwashed or  
11 normalised. The point is he was getting something out  
12 of that.  
13 Q. Yes.  
14 A. Right. It was an abusive situation, but he was a highly  
15 vulnerable young person. I think he was the one whose  
16 father was in prison for murdering his mother. Highly  
17 vulnerable young person and Knott was presenting himself  
18 as a surrogate father and said to him: 'Don't tell  
19 anyone or you'll have another father in prison'. And  
20 that is just such a dreadful exploitation of young  
21 people's feelings.  
22 Q. But you were given some information from staff, former  
23 staff members you spoke to about how the situation at  
24 Glenallan gradually deteriorated?  
25 A. Yes.

1 Q. You talk about that on the top of page 28. Can you help  
2 me with that, what were you being told?

3 A. Well, it says the children were more out of control.  
4 I mean, he wasn't -- he wasn't a good administrator.  
5 I mean, he was obviously very young when he got into  
6 this whole area of children's homes and his priority was  
7 that the children should like him. So I think they  
8 probably kind of got away with things that perhaps there  
9 should have been some element of control on.

10 So naturally the situation -- his agenda, as far as  
11 I can see, was not about operating a well-run children's  
12 care establishment. It was about, it seemed to me,  
13 getting what he could out of relationships with  
14 vulnerable residents. And he was getting positive  
15 feedback from that as well, you know. I mean, that is  
16 the thing. The things he was doing were things that at  
17 that time the children liked. But it's kind of like at  
18 school as well, you know, where children don't like the  
19 strict teachers but don't like it to be completely out  
20 of control, you know. There's -- there is a point at  
21 which it tips and I think that's what happened there,  
22 that things just deteriorated until the management  
23 issues, the lack of proper management, came to the fore  
24 and had to be addressed.

25 Q. But when you talk about his agenda, his agenda, I think

1 as we now know, was really to abuse children?

2 A. Yes. Yes, we don't know if it was his agenda when he  
3 started.

4 Q. No.

5 A. Because he said he did not seek employment in that area  
6 with a view to abusing children, but there was -- having  
7 found that this was an environment that presented  
8 opportunities for something that he enjoyed doing, with  
9 apparently little chance of being found out, then, you  
10 know, one can imagine how that became his agenda, so  
11 I imagine it developed.

12 It might not -- similarly like I said in the  
13 article, I know you are coming up to it later, I just  
14 often wondered about people who enter religious orders  
15 and whether -- what happened to turn them, you know?  
16 Was it opportunity, was it a bad culture, was it  
17 something like that? But with Gordon Knott it seemed to  
18 me that his agenda developed with the positive feedback  
19 and the enjoyment that he was getting from abusing  
20 children.

21 LADY SMITH: It's not unlike, Kathleen, what we heard from  
22 another man just a few weeks ago, who gave evidence from  
23 prison, he's serving a long sentence. And when asked,  
24 how do you think this happened, and he abused quite  
25 a number of children, and it was very much: well, you

1 try it once and you can do it and nobody stops you,  
2 nobody knows, so you can do it a second time and then  
3 you can do it a third time. And, 'Yes, it was the  
4 innocent ones that appealed to me'.

5 Now, as an older man, as a result of programmes in  
6 prison, he says he realises now he deprived them of  
7 their innocence, but the impression he gave was it was  
8 just so easy at the time and it became what he did.

9 A. That's right. It becomes a habit, doesn't it.

10 LADY SMITH: Mm-hmm.

11 A. It's habitual.

12 MR MACAULAY: But he was in an environment where he could  
13 get away with it.

14 A. Yes.

15 LADY SMITH: Yes, as here, Knott.

16 MR MACAULAY: Yes, Knott.

17 LADY SMITH: Our previous witness.

18 MR MACAULAY: And at paragraph 3.53 on page 29, and I think  
19 this came from members of staff, I'll read that out:

20 'We were told how staff rotas and sleeping  
21 arrangements facilitated the abuse. Because of staff  
22 shortages, Knott did lots of shifts and encouraged other  
23 staff to go off early. Sleepover staff were reduced in  
24 number from two to one. Knott insists that the  
25 employment of night staff meant that he was not alone on

1 duty.'

2 But clearly the staff, the other staff you spoke to,  
3 provided information that would allow Knott to have the  
4 opportunity to abuse children?

5 A. That's right. And when you're officer in charge you can  
6 manipulate these things, you know, to ensure that these  
7 opportunities are provided.

8 And I think in different ways we found that with  
9 different abusers, like -- well, like MacLennan used to  
10 go with -- was it MacLennan who used to go with children  
11 to children's hearings so they couldn't -- you know, he  
12 could manipulate that so that he was the one who was in  
13 a position to stop the children from talking.

14 So, yes, they had the opportunity to enhance that  
15 environment in a way that gave them more access to  
16 children in a way that was unlikely to be detected.

17 Q. Okay. You then look at Dean House and we're not looking  
18 at that today, and you cover that from paragraphs  
19 I think -- sorry -- yes, paragraph 3.57 to 3.99.

20 You then, at paragraph 3.100, talk about the  
21 management of the homes and the set-up:

22 'The Director of Social Work for the latter period  
23 covered by the abuse, described as to how he had come to  
24 the post from a background in residential care and had  
25 been committed to improving standards. For this

1           purpose, he had been given a sum of money by the  
2           council. He had used it to set up a system of external  
3           advisers to the residential units, involving assistant  
4           principal officers known as APOs.'

5           So was the APO someone who wasn't on the ground, but  
6           was available?

7    A.   Wasn't on the ground?

8    Q.   Wasn't in the residential --

9    A.   Wasn't part of the unit staff?

10   Q.   Yes.

11   A.   Yes, but was available.

12   Q.   Okay.

13   A.   Part of the management structure of the department.

14   Q.   You quote, this is on page 39 into page 40, you touch  
15        upon concerns that were touched upon by the emergency  
16        services manager on behalf of staff currently working in  
17        the Emergency Social Work Service Team, who sent you  
18        a paper entitled 'Lothian's children's homes in the  
19        1980s'?

20   A.   Yes.

21   Q.   And moving on to the next page, I think you provide us  
22        with some extracts from that report?

23   A.   Yes.

24   Q.   And just to read that:

25        'The culture of social work in the 1980s was

1 different and young people with complaints were not  
2 necessarily believed. Independent disciplinary  
3 investigations were not common.'

4 That's one of the points that was made at that time?

5 A. Yes.

6 Q. And:

7 'Children's homes were not stable and at any one  
8 time one or more units might be in a state of crisis,  
9 a circular effect of poor staffing, poor physical  
10 conditions and sometimes of difficult behaviour from  
11 young people. There was no clear guiding philosophy in  
12 residential care and units would develop their own  
13 culture based upon their unit manager. This could vary  
14 from the libertarian to the tightly and physically  
15 controlled. Until 1991, the residential and daycare  
16 section provided their own system of management support  
17 out of hours.'

18 So that's giving us a picture of what life was like  
19 in the 1980s --

20 A. Yes.

21 Q. -- which is relatively recent.

22 A. Yes. I mean, when we were doing -- you know, we visited  
23 all the residential units in 1988 as part of our remit  
24 with regard to the present --

25 Q. Yes.

1 A. -- and I'm not sure a lot had changed. There was still  
2 a lot of chaos, crisis, things that we identified in the  
3 report as a major threat to children's safety. That  
4 was the position with regard to under 12s. A lot of it  
5 was resource-based.

6 In 1988, the local authority, I think, was still  
7 hurting from the down-sizing after local government  
8 reorganisation -- 1998, sorry, I'm talking about 1998.  
9 So -- yes, 1998 I'm talking about.

10 So when we were looking at it in 1998, there were  
11 still, I would say, units were still unstable. There  
12 was still a lot of chaos. The recruit -- I wouldn't  
13 say -- there were promising signs about recruitment.  
14 They were going to have a recruitment development  
15 centre. But as late as 1993 we'd heard about a case of  
16 someone being recruited in a pub for a nightshift that  
17 very night for residential care.

18 This is just a shockingly casual and cavalier  
19 approach to introducing strangers to where vulnerable  
20 young people were living.

21 Q. And I think you address these issues particularly in the  
22 recommendations that you've made?

23 A. We did, yes, yes.

24 Q. Because, as you've pointed out, you didn't just focus on  
25 Glenallan and Clerwood.

1 A. No.

2 Q. Or, indeed, Dean House. You looked at all the  
3 residential units?

4 A. We did.

5 Q. Within Lothian?

6 A. We visited all the resident -- in Edinburgh, and some --  
7 I think we went to a few outside that took Edinburgh  
8 children and we visited some foster carers as well.  
9 But, no, I think the situation was quite -- you can't  
10 say every unit was like that. There was a huge amount  
11 of inconsistency and one of the things I'm always aware  
12 of in talking about this is the need not to  
13 sensationalise and generalise, because some young people  
14 had a good experience of residential care and they don't  
15 like their childhood being trashed, you know, and they  
16 would come and talk to you about that, how they didn't  
17 want us to give the impression that everyone in  
18 residential care had been in an abusive environment and  
19 was abused and all these dreadful things had happened,  
20 because that's not actually the case.

21 LADY SMITH: Or that every person criticised was a bad  
22 person because they had good experiences and admired  
23 somebody else.

24 A. Yes. Yes. So, you know, it's -- but the general  
25 situation when we looked at 1998 was not good.

1 LADY SMITH: You said, Kathleen, that the picture of chaos,  
2 crisis, matters that were major threats to children's  
3 safety, was, to a great extent, resource-based. Was it  
4 also to do with the culture that was common then?  
5 A. Oh, I think it was to do with the culture as well, yes,  
6 very much so, it was to do with the culture. The  
7 resource part was specifically about not having enough  
8 staff and that sort of fed the culture, because there  
9 were a lot of unqualified staff. As I say, they were  
10 brought in on the basis that it's a domestic task, you  
11 know. And -- but the lack of resources was -- I mean,  
12 I learned that kind of the hard way.

13 One of my first involvements when I joined the  
14 Scottish Child Law Centre in 1988/1989 was we ran  
15 a conference on the rights of children in care, and as  
16 part of that, I did a lot of homework, as I tend to do,  
17 and I looked at all the law, policy, guidance on life in  
18 residential care, and I was phoning units, residential  
19 units, asking them about their statements of functions  
20 and objectives, and many of them just laughed. They  
21 said: 'Look, we're trying to work here. Is there  
22 enough -- you know, is there a riot going on here, are  
23 there light bulbs in the rooms and everything. We don't  
24 have time to deal with statements of functions and  
25 objectives'.

1           That was kind of 1989 and I quickly learned from  
2           contact with young people as well that the rosy picture  
3           you got from reading the policy and the guidance was not  
4           reflected in practice. And the young people were very  
5           good at that. Who Cares? Scotland used to run  
6           a conference every year and the young people would put  
7           on dramatic presentations of what it was like to go into  
8           care or to leave care. And it was so different from  
9           what it actually said on paper.

10           It's, you know, I always -- you know, I mean, there  
11           is a danger that you can think you change the law, you  
12           can change the policy, you can change the guidance and  
13           everything will be all right, and there's a kind of  
14           abracadabra approach. And in some ways I've done that  
15           as well. I've campaigned to change the law, policy and  
16           guidance, but it doesn't really work if you don't join  
17           it up with the experience on the ground, you know. You  
18           can think you've done a great job, but the question is,  
19           what's actually happening, and I think that's been  
20           a message across the decades.

21   LADY SMITH: It's the old problem of moving from good,  
22           correct policies into practice, into implementation --

23   A. Mm-hm, yes.

24   LADY SMITH: -- so that the two directly reflect each other.

25   A. That's right, mm-hm.

1 LADY SMITH: Mr MacAulay.

2 MR MACAULAY: The implementation of good policy would demand  
3 resources.

4 A. Yes.

5 Q. And that has, at least historically, been a problem?

6 A. It has, and especially like with the numbers and the  
7 kind of staff and the support that they get.

8 For example, when we're talking about foster care,  
9 it's a more appropriate resource for many young people.  
10 There's always really been a shortage of foster carers,  
11 but you can't just increase the number of foster carers  
12 without increasing the number of staff who are there to  
13 support them, especially when they're dealing with  
14 children who've had very difficult backgrounds and  
15 challenging behaviour.

16 So it's not a question of, you know, just -- people  
17 can trivialise it by, say, throwing money at it, but you  
18 do need the resources, you do need the trained staff,  
19 you do need the support for the staff, and all of that  
20 is resource-rich, and my -- one of the main messages  
21 that came to me out of this inquiry was that children  
22 should not be regarded as a budget heading. And I don't  
23 know if you want to get into that but, you know, in  
24 1998, the performance factor issue; maybe you want to  
25 hold on to that until later.

1 Q. I will touch upon that --

2 A. Yes.

3 Q. -- if you don't mind.

4 A. Yes.

5 Q. But then if I go back then to the part of the report

6 that I want to look at.

7 A. Yes, of course.

8 Q. This is at page 41, where you have a section, section 4,

9 dealing with 'Responses to reports by victims'.

10 A. Yes.

11 Q. And as you point out:

12 'Our remit required us to ascertain whether any

13 allegations had been raised prior to the commencement of

14 the police investigation and to determine whether any

15 reports were made which were not acted upon.'

16 And under reference to that, you look at reports

17 per se, but you also look at behaviours?

18 A. Yes.

19 Q. And you set out on that page the areas that you are

20 going to cover. And if I could go on to the following

21 page, page 42, at 4.5 you are looking at the position in

22 relation to Clerwood, where you talk about 'Report 1'

23 and the heading is:

24 'Child J said she told a member of staff.'

25 A. Yes.

1 Q. Now, you go on to tell us at 4.5:

2 'Child J was abused by MacLennan at Clerwood. She  
3 did not respond to the inquiry's invitation to come  
4 forward with information.'

5 So you didn't speak to child J?

6 A. No, she didn't come forward.

7 Q. So what you point to next is:

8 'Press reports indicated that when she made the  
9 report to the member of staff, she did not go into  
10 detail about the allegations. Those who heard her  
11 evidence at the trial indicated that J had said the  
12 member of staff had not believed her.'

13 Now, I think because child J had not responded to  
14 your invitation, that, you weren't able to come to any  
15 conclusions in relation to this particular issue?

16 A. That's right. And that was really the case -- I think  
17 with four of the Clerwood ones, the older ones, there  
18 was -- there wasn't -- the difficulty of looking into  
19 the past, there's a question of what you can actually  
20 conclude on, because you actually don't have the  
21 evidence and you can't just speculate about it. If we  
22 didn't have the actual information we couldn't conclude  
23 on it. But we felt it was important to set them all  
24 out.

25 Q. The next one, for example, again with Clerwood: 'Child D

1           said child C tried to tell but was not believed.'

2    A.   Yes.

3    Q.   But I think when you put that to child C, he couldn't

4           remember that.

5    A.   Yes.

6    Q.   So again --

7    A.   That's right.

8    Q.   -- you couldn't really do very much with that?

9    A.   We couldn't say anything about it.

10   Q.   So in relation to contemporaneous reports, you looked at

11           these two areas and really could not make any

12           conclusions?

13   A.   Not with Clerwood.  The Clerwood ones all had

14           insufficient information to conclude on it, which is not

15           to say that they didn't happen.

16   Q.   But in relation to other reports that may have pre-dated

17           the police investigation, you do look at reports that

18           were made by former residents, particularly in the

19           1990s?

20   A.   Yes.

21   Q.   Before the police investigations got underway?

22   A.   Yes.

23   Q.   And I think you do come to a view that the police

24           investigation might have been triggered earlier if

25           certain reports had been acted upon sooner?

1 A. Yes.

2 Q. But we're talking about two or three years --

3 A. Yes.

4 Q. -- rather than a long period of time?

5 A. That's right.

6 I think there's an issue, you know, when you look at  
7 it, the earliest -- I mean, there's about 25 years going  
8 back from our inquiry to some of the earliest abusing,  
9 and people didn't keep -- it was all paper records,  
10 of course. Probably nowadays you'd have more  
11 information. And people got rid of stuff. I mean, we  
12 had difficulty even finding child protection procedures,  
13 because they were all on paper and in order to avoid  
14 confusion, people were told to destroy the earlier  
15 versions, and there was one set we never found.

16 So the records were not there --

17 Q. No.

18 A. -- and just the memories fade and people are not  
19 available, so it's very, very difficult to conclude on  
20 some of these. But I think you just have to set it out.  
21 If you can at least tell the story and acknowledge that  
22 this was a report, then hopefully you've done something  
23 to make people feel that they're heard now.

24 Q. And in relation to behaviours, you look at Clerwood  
25 behaviour at the bottom of page 46, 4.29. And in

1 particular, you draw attention to the fact

2 that:

3 'Former residents of Clerwood described how the  
4 children had a practice of climbing a tree near the  
5 staffroom and shouting "Brian is a perv".'

6 A. Yes.

7 Q. But that didn't trigger any response?

8 A. It didn't. And I'm not sure -- I mean, the interesting  
9 thing about that too is the children joined in it, but  
10 they also said they didn't discuss it amongst  
11 themselves. And it was known and some of the young  
12 people would say to you as well that they would say  
13 things when they were angry to try and get a response,  
14 and I think this was a way of indirectly trying to say  
15 what was going on. But that sort of thing is very  
16 difficult to disentangle from mischief-making or people  
17 just letting off steam.

18 I mean, nowadays I would hope it would get some sort  
19 of response. But there's also, you know, if you look at  
20 some of the later information I think, people would be  
21 wary of an overreaction to that sort of thing even now.  
22 Because, and as you'll know from my article, I always go  
23 on about the power and abuse thing, and this sort of  
24 thing is the way sometimes of children regaining some  
25 power over the situation. But staff feel that if there

1 was an overreaction to something like that, it would  
2 make children have too much power and staff be very  
3 vulnerable.

4 It's a very difficult area. I think, you know, in  
5 retrospect you can see that it was a way of them trying  
6 to raise the issue, but it's not always the case.

7 Q. No. But I think that's what you were told, I think by  
8 one of the children.

9 Top of page 47 --

10 A. Yes.

11 Q. -- what you say is:

12 'One resident, who spoke to the inquiry and took  
13 part in this practice, stated that her view was that  
14 this was a deliberate, if unarticulated, attempt by  
15 herself to draw staff's attention to their concerns.  
16 But the only staff response was to tell the children to  
17 come down and behave themselves.'

18 A. Yes, that's right. I mean, there was no attempt to kind  
19 of explore what they meant by that. It was just  
20 dismissed as mischief.

21 Q. And in the conclusion, about halfway down the  
22 'Conclusion', what you say is:

23 'We make no criticism of staff at that time for not  
24 having identified the name-calling as a potential cry  
25 for help. However, the lesson to be learned is that any

1 child, and particularly a young child, may experience  
2 difficulty in articulating complaints against staff in  
3 relation to inappropriate behaviour by them.'

4 A. Yes.

5 Q. And one of the things you say is:

6 'The potential relevance of such name-calling should  
7 be considered in the future.'

8 A. Yes, absolutely.

9 Q. I think the point you're making is staff's antennae  
10 should be more geared to that sort of behaviour?

11 A. Yes, to the way children behave and the things they say,  
12 absolutely, yes.

13 LADY SMITH: It's a question, isn't it, Kathleen, of staff  
14 asking themselves and then others what it is the  
15 children mean; why are they using that name for that  
16 member of staff?

17 A. Yes. No, I think it is, yeah.

18 LADY SMITH: They can't assume it's just mischief-making?

19 A. No. No, no, you can't. That's what I'm saying.

20 I think at that time that was an assumption. I'm saying  
21 sometimes young people have told us themselves that  
22 they'll use certain language just when they're angry and  
23 they're letting off steam, but you can't assume that  
24 that is what it is. If that's what children are saying,  
25 then there has to be some measure of enquiry into it.

1 LADY SMITH: And I have come across this happening in other  
2 institutions.  
3 A. Yes.  
4 LADY SMITH: Other places.  
5 A. Yes.  
6 LADY SMITH: The word 'perv' being used for somebody whose  
7 first name rhymed with 'perv'.  
8 A. Yes.  
9 LADY SMITH: And he was abusing children.  
10 A. Yes, that's right.  
11 LADY SMITH: And nobody did anything about the name-calling  
12 and it must have been known. Or a boy being emotionally  
13 abused by a terrible name being used about him, and not  
14 only did the other boys christen him by that name, but  
15 teachers used it as well.  
16 A. Oh, goodness.  
17 LADY SMITH: They bought into it.  
18 A. That's shocking.  
19 LADY SMITH: As part of the culture.  
20 A. Yes. Yes.  
21 LADY SMITH: Mr MacAulay.  
22 MR MACAULAY: Now, on page 47, at letter H, you look at  
23 'Clerwood Behaviour 2' and this is in relation to a poem  
24 read by a member of staff.  
25 A. Yes.

1 Q. And as you set out there, child E, who spoke to you,  
2 told you about a poem she had written in which she had  
3 made reference to sexual abuse perpetrated on her while  
4 a resident in Clerwood, and in court she gave evidence  
5 that she was abused by MacLennan but that also Knott had  
6 induced a child to abuse her.

7 And she also told you that the poem had been read by  
8 the officer in charge and he had asked her about the  
9 contents, but she would not speak about it.

10 But did it appear then that the poem had been  
11 removed from her possession? Can you just tell me what  
12 you understood the position to be?

13 A. Yes. That was our understanding. I have to say we were  
14 very concerned about this particular episode, but again  
15 it was one of these where we had nothing else to make  
16 a clear judgment on, other than saying that we were very  
17 concerned about it.

18 When we eventually did get the poem that the officer  
19 still had, and I don't even know if that would have been  
20 the complete poem or what, it was very vague. It didn't  
21 really give information -- it didn't really allege  
22 abuse, put it like that. We were concerned about the  
23 whole dynamics of it, about why the officer in charge  
24 would have taken it and why he would have denied that he  
25 had it in the first place and then turned round and said

1           that he did. And eventually, as I say, we only got  
2           a copy of it just before we concluded the inquiry.

3           So we thought it was very suspicious -- suspicious  
4           behaviour, but we didn't have anything else to back up  
5           a firmer conclusion on about it.

6   Q. What you tell us at 4.34 is that you did interview the  
7       former officer in charge:

8           'He indicated at first that he could not remember  
9           the resident concerned.'

10   A. Yes.

11   Q. 'Subsequently, he remembered both the resident and the  
12       poem.'

13   A. Yes.

14   Q. 'To him it had represented the anguish of being in care.  
15       He claimed to be so touched by it that he decided to  
16       keep a copy. He had kept it at his home for many  
17       years...'

18           Was it by pressing him --

19   A. Yes.

20   Q. -- about it that he eventually sent you the poem.'

21   A. I think we eventually -- I don't know if we actually  
22       told him or threatened. We had some powers under the  
23       inquiries legislation and I think this was the only time  
24       we thought of using it really, because we wanted to get  
25       that poem, and it may have been as a result of that

1 pressure that he eventually sent us something.

2 But it was very concerning. When we got it, as  
3 I say, it wasn't -- it didn't make an explicit  
4 allegation.

5 Q. No.

6 A. But, you know, it is very evocative. So there wasn't  
7 much more, but we felt all we could really do was set  
8 that out in as much detail as we could about what had  
9 happened and express our concerns about it. We thought  
10 it was a very strange situation indeed.

11 Q. You set it out in the report, but I'll put the document  
12 that was sent to you on the screen and that's at  
13 EDI-000005896, at page 2.

14 So we see, notice first of all, this is typed out?

15 A. Yes.

16 Q. I mean, would it be your understanding that it was the  
17 officer in charge who typed out the poem; that the girl,  
18 the person involved, had written the poem in a book,  
19 a book I think she kept for poetry?

20 A. I can't -- I don't have any recollection of that.

21 Q. No, okay. Well, I'll just read it out.

22 A. Yes. I have the text but I don't have any recollection  
23 of how she wrote it or who typed it.

24 Q. No:

25 'You all pretend to care

1           You all say "I know how you feel"  
2           But you don't  
3           A few sympathetic words is your strength  
4           You all refuse to dig deep  
5           And see what the real trouble is  
6           You are all meant to be qualified for the job  
7           But how can you when you have never experienced what  
8           we have.'

9           And as you pointed out, it doesn't specifically make  
10          reference to direct abuse, but it's nevertheless -- it  
11          comes across as a poignant cry for help?

12   A. Absolutely. Yes, I think it is, yes. And he did speak  
13          to her about it, but nothing seems to have happened, so.

14   LADY SMITH: Well, there are two points in that poem that  
15          were crying out --

16   A. Yes.

17   LADY SMITH: -- to be explored, which is:  
18          'You don't know how I feel.'

19   A. Yes.

20   LADY SMITH: Tell me how you feel. What is it that I don't  
21          know that you think I need to know.

22   A. Yes.

23   LADY SMITH: And then there's 'real trouble' that you'll  
24          find if you dig deep. Help me, help me dig and tell me  
25          what the real trouble is.

1 A. That's right. And yet it takes -- I mean, the evidence  
2 from a lot of children who were involved in the inquiry  
3 was about who they would tell, you know, and even people  
4 that they trusted sometimes. There was one mentioned  
5 who had a very persistent and perceptive teacher who  
6 knew something was wrong, but they wouldn't tell the  
7 teacher, because it might get back to the unit. And  
8 that was -- you know, like, there was one, another one  
9 who talked about the social worker who she quite liked,  
10 but we kind of categorised, paraphrasing the young  
11 person, who says 'nice but ineffective'. You say: well,  
12 well, you know.

13 So there was this barrier about how you introduced  
14 the real issue into the conversation, and as I said, you  
15 know, quite often even having the language to articulate  
16 that and wondering what would happen as a result.

17 At the law centre we produced a leaflet one time  
18 because it was telling about child abuse and what  
19 happens next. And that was, I think we used to --  
20 probably aimed at adults mainly. But people like to  
21 know what's going to happen if they tell.

22 If they impart something that is very personal  
23 information and very hurtful information into  
24 an environment where they're not sure how it's going to  
25 be received, is it going to be believed, are they going

1 to be slapped down literally or metaphorically for it,  
2 and are things going to get worse as a result?

3 And one of the conclusions I came to, listening to  
4 all of that, was that children were basically in charge  
5 of looking after their own survival. They were making  
6 decisions about what was likely to happen if they did A,  
7 B, C and D. What was actually going to be in their  
8 interests? They did not have confidence that telling  
9 adults was going to make things better, and  
10 unfortunately the experience of many of them was that  
11 when they told, it didn't make things better. It often  
12 made things worse. They would get the cold shoulder.  
13 They would get -- there was one of them who had said  
14 that the threat was that she'd be separated from her  
15 siblings if she told. Her brothers were removed, you  
16 know.

17 So, in those -- the children had to take their  
18 survival and their wellbeing into their own hands. They  
19 did not trust other people to do it. And that is  
20 really -- I think if you don't get over that, if you  
21 don't make sure that every child has somebody that they  
22 will feel safe to impart this difficult information to  
23 it, then you're not going to make that crucial  
24 connection between children's experience and the whole  
25 panoply of policies, procedures and rights that we've



1           And in particular at 4.38 you said:

2           'Child E told us that children ran away from  
3           Clerwood every other week but they were just disciplined  
4           on their return and sent to their beds. The staff made  
5           no real effort to discover why the children kept running  
6           away in such numbers. In this resident's experience,  
7           the children's hearings which she attended did not ask  
8           either.'

9           There's two points there, really, there's the  
10          running away from the home, and you are probably aware  
11          that this Inquiry has heard a lot of evidence about  
12          children running away, but the message has never been  
13          understood. Was that the position here: the children  
14          ran away, the staff did not investigate why that was?  
15    A.    Yes, I think there was just a kind of general feeling  
16          that children run away from homes for various reasons,  
17          sometimes to stay with friends, sometimes to have fun  
18          or -- you know, not a real understanding of the fact  
19          that there might be deeper reasons for it. And  
20          although, as I say, over the years procedures have been  
21          introduced about who's supposed to debrief the child and  
22          all of that, it's still, even in my latter years, not  
23          necessarily in Scotland, but other cases I've known  
24          where it's been difficult to get a consistent response  
25          to children running away from home, even when the risks

1 are now acknowledged as being very high. Like in the  
2 whole child sexual exploitation issue, running away was  
3 a huge indicator that something was wrong.

4 But I don't think -- I think we've got better at  
5 regarding it as being something significant that  
6 requires a response, but certainly at that time it was  
7 generally they were just returned and it was regarded as  
8 a black mark against them, rather than an indication of  
9 a need for help.

10 Q. And you mentioned the Skinner Report which I think was  
11 the early 1990s.

12 A. Yes.

13 Q. And that's at 4.41:

14 'That absconding may be a response to abuse or other  
15 unhappiness --'

16 A. Yes.

17 Q. '-- and [I (sic)] have recommended that serious  
18 attention be given to finding out why children run  
19 away.'

20 You adopted that recommendation?

21 A. Yes, absolutely, yes.

22 Q. The second point I want to just ask you about is this  
23 observation that is made by this individual, that the  
24 children's hearings that she attended did not ask?

25 A. Yes, that was quite shocking really. You would think

1           that that would be something that was very relevant for  
2           the children's hearing to know. And I think we came  
3           across a couple of issues like that, where information  
4           that one would have thought the children's hearing  
5           should have known was for some reason not actually  
6           presented to them. So, yes, that was definitely  
7           a failing.

8    Q. Now, the next point you look at is to do with Glenallan  
9           and this is on page 50 and it's about this incident when  
10          a note was passed under a door at Glenallan.

11   A. Yes.

12   Q. And what you say at 4.43 is that:

13                 'In mid-1979, child G, who was acknowledged to have  
14                 been Knott's favourite, together with child K, with whom  
15                 he was very friendly, wrote a note addressed to  
16                 Mrs Knott. That note accused her husband of interfering  
17                 with G.'

18                 So this was clearly, on the face of it, an attempt  
19                 by child G in particular, who was being abused, to  
20                 draw -- to make a report and draw that to Mrs Knott's  
21                 attention.

22                 Did you ever see the note?

23   A. No. Do you know, when I was re-reading the report  
24                 I actually asked myself that question. I don't remember  
25                 ever seeing the note. I'm sure we would have looked for

1           it.

2           Alan -- I don't know if you came across --

3           Alan Finlayson tended to do the detective work and he  
4           was very assiduous in that, but I don't remember ever  
5           seeing the note and I cannot remember what the reason  
6           for that was.

7   Q.   I think the Inquiry has information that the note ended  
8           up being placed in a logbook.

9   A.   Yes, that's what it said. That's what we were told.

10   Q.   And the logbooks that the Inquiry has sought to recover  
11           are not to be found.

12   A.   Yes, I think that was the reason. We certainly -- we  
13           didn't see it and I'm sure we would have looked for it  
14           in the logbooks that were available.

15   Q.   But in any event, you understand that the note did  
16           accuse Mr Knott of interfering with G?

17   A.   Yes. Yes.

18   Q.   And at 4.48, you set out what you understood from  
19           child G as to what happened:

20           'The staff went into the office for a chat about the  
21           note. Knott came to G and said: "Now you've blown it.  
22           We can't have our 'special thing' anymore".'

23   A.   Yes.

24   Q.   'He said it would all end up with him being in jail and  
25           then G would have "two dads" in jail.'

1 I think you made some reference to that earlier?

2 A. I did mention that earlier, yes.

3 Q. 'G was in tears. Knott urged G to say it was a lie. He  
4 was taken into the office where he was "grilled" by  
5 staff and forced to say it was a joke and he withdrew  
6 the allegation.'

7 So that's what happened, as you understand it?

8 A. Yes.

9 Q. And indeed he was forced to apologise?

10 A. Yes. And notably child K, according to that report, was  
11 punished for 24 hours by being put in  
12 an assessment centre, and that was a theme of the  
13 children. You know, I think one of the things was  
14 Glenallan and Dean House, you know, were both regarded  
15 as good places to be, and the threat was that if there  
16 was trouble, they would get sent to an assessment centre  
17 and that seems to be what happened. And staff refer to  
18 that as well, about there being a large regional  
19 assessment centre that was used as a means of control.

20 So it's quite interesting that this child was,  
21 I mean, actually sent there, presumably as a punishment.

22 LADY SMITH: For that to happen, what would the mechanism  
23 have been? Right, you've got somebody at Glenallan who  
24 wants to punish a child by sending them to perhaps the  
25 nearest assessment centre. How do they arrange that?

1 A. There must have been some -- I do remember there were  
2 issues about, if it was secure care, about going into  
3 secure care in emergencies for -- I used to know all  
4 these sections off by heart -- for a short period, and  
5 it may be that one of these sections was used.

6 You know, there was certainly an ability to use  
7 secure care as an emergency mechanism and it may be  
8 that. But that's not necessarily the way it was used,  
9 you know. It looks here as if it was a punishment and  
10 the assessment centre was held out as a threat, and so  
11 the children were available, that there were worse  
12 places to be. Not only were there worse units to be,  
13 but there were worse -- different type of facilities to  
14 be, and that threat seems to have been applied in this  
15 case, according to child G. Child K didn't come  
16 forward, so we didn't manage to confirm, corroborate  
17 that with him.

18 MR MACAULAY: And Knott is recorded as having discussed the  
19 note at the interview that the inquiry had with him.  
20 I'll perhaps just put that back on the screen, it is  
21 EDI-000005905, at page 3.

22 A. 'The note', yes.

23 Q. And the heading there is -- what's recorded is:

24 'This was placed under his and his wife's door.  
25 They lived on the premises. They had read it. It was

1 written on a scrap of paper. He had arranged for his  
2 wife and [another] to interview [the boy]. The note  
3 also seemed to involve another child. [The boy]  
4 withdrew the allegations to those who were speaking to  
5 him. The whole matter was discussed at a staff meeting.  
6 The note was left in the logbook and remained there  
7 until the closure of the unit when it was sent with the  
8 other staff documentation to Shrubhill.'

9 He goes on to say:

10 'I told **MVF** about it.'

11 And he may have been one of his supervisors?

12 A. Yes, that name doesn't ring bells with me.

13 Q. 'I decided to leave the note in the logbook because it  
14 would have been more likely to raise suspicions if  
15 I tried to remove it.'

16 Then he goes on to say:

17 'No one ever asked him whether or not what was said  
18 in the note was true.'

19 Which is quite startling in a way?

20 A. It is. It is quite startling and I think it's evidence  
21 of the culture at the time of not believing what  
22 children say.

23 And I think we had other instances of that, that  
24 where a child retracted an allegation under pressure,  
25 intimidation, fear, people heaved a sigh of relief and

1 thought that that was it, you know, they didn't have to  
2 worry about it anymore.

3 But the fact that they didn't ever ask him if it was  
4 true -- you know, adults are afraid to confront other  
5 adults with things like this. They find it too  
6 uncomfortable to do that.

7 I mean, you can see that in all sorts of different  
8 environments, you know, that it's just too awkward to  
9 confront an adult with it, especially one that you think  
10 you know and you're working with. And that came out  
11 a lot and it's the human dynamics element of discovering  
12 these things.

13 Q. And on page 52 you set out at paragraph 4.58 your  
14 conclusions on this matter, and what you say is:

15 'In terms of the Inquiry's remit, notwithstanding  
16 the various accounts ...'

17 And that's as to how the note appeared:

18 '... a clear allegation was reported to staff.'

19 And you end up by saying:

20 'What is clear is that a child reported he had been  
21 abused by Knott as long ago as 1979 and the lack of any  
22 significant action indicates a highly inappropriate  
23 response by officers of the department at some level.'

24 A. Yes, that's correct.

25 Q. Now, as far as Glenallan is concerned then, is that the

1           only contemporaneous report of abuse?

2   A.   Yes, it was.  The others were afterwards.

3   Q.   Yes.  I think you do refer to other reports, but these  
4       were reports in the early 1990s, I think, to the police?

5   A.   Yes, and to, yes, criminal justice worker.

6   Q.   Yes.

7           On page 59, if I can take you to that, you're  
8       looking here at about -- this is paragraph 4.86 --  
9       a child who wrote a book about abuse and told a social  
10      worker that he had written the book?

11  A.   Yes.

12  Q.   And I think you saw the relevant chapters of the book?

13  A.   We did, yes.

14  Q.   And I think you are rather complimentary of --

15  A.   Yes, it was.  I do remember, it was very well written  
16      and very insightful.

17  Q.   And he wrote the book because he had been encouraged to  
18      do so in his late teens by his social worker, as part of  
19      therapy for himself?

20  A.   Yes.

21  Q.   And he does mention in the book that he was abused.

22  A.   Yes.

23  Q.   In a particular chapter.  It's a short reference, but it  
24      is there.

25  A.   Yes.

1 Q. Indeed, you tell us that the relevant chapters of his  
2 life story were lodged in court at the trial. But what  
3 you also tell us at 4.48, he -- the fact --

4 LADY SMITH: 4.88?

5 MR MACAULAY: 4.88. I'm sorry, 4.88:

6 'He said that none of the social workers who had  
7 known about the book had actually read it.'

8 A. Yes.

9 Q. So although he had ventilated the fact that he had been  
10 abused at the time of the writing of the book in the  
11 19 -- when he was in his teens --

12 A. Yes.

13 Q. -- no one had read it?

14 A. That's right.

15 Q. But you go on to tell us that he subsequently, when he  
16 was 18 or 19, he met a social worker and went for coffee  
17 with her, and as part of the conversation he did mention  
18 that he had been abused.

19 A. Yes.

20 Q. And going on to page 60, what you tell us when you'd  
21 spoken to the relevant social worker, towards the top,  
22 she told you:

23 'That she she neither believed nor disbelieved him,  
24 but was very anxious that he think seriously about the  
25 allegation and, if it were true, that he should take

1           appropriate action.'

2   A.   Yes.

3   Q.   But -- and also you say that he was going through  
4           a difficult time and in particular it was his  
5           glue-sniffing period?

6   A.   Yes.

7   Q.   Now, what conclusions then did you come to here?  
8           I think you say you were impressed by the social  
9           worker's account, but nevertheless, this person did make  
10          a complaint of abuse to her?

11  A.   Yes.

12  Q.   Which -- and she acknowledges that?

13  A.   Yes.  She, I think -- he did make a complaint of abuse  
14          to her.  She said it was mixed up with so many other  
15          things at the time and she was not working with him.  
16          It's one of these things that fell into the category of  
17          could have done better, I think.  You know, she could  
18          have taken it forward, and certainly not left him to do  
19          it himself.  I think that's a theme that comes through,  
20          is the young people who reported it later on in life  
21          being told that they were the ones with the  
22          responsibility to take the matter further forward.

23                But -- yeah.

24  Q.   I think what you tell us at 4.89 is that this person was  
25          18 or 19 at the time, and having regard to his date of

1 birth, which was in 1969, that would place this sometime  
2 in perhaps 1987/1989, that sort of period?

3 A. Mm-hm.

4 Q. So if it had been taken forward, it might have triggered  
5 an earlier police investigation than the one that  
6 actually took place later in the 1990s?

7 A. Yes.

8 LADY SMITH: Well, he left Glenallan when he was 12,  
9 I think, according to your finding? That was mentioned,  
10 I think, a little bit further up, in 4.86. The young  
11 man had been resident in Glenallan until he was 12.

12 So with a date of birth of 1969, that would mean it  
13 was 1971 (sic) that he left Glenallan.

14 A. I wonder if he -- he was in Glenallan -- I'm not sure,  
15 reading this, and I can't remember, I'm just -- what  
16 happened after the adoption failed.

17 LADY SMITH: Oh, you wonder if he went back?

18 A. If he went back. And I don't know from looking at this.

19 LADY SMITH: Mm.

20 A. So I think certainly, if he made a report to a social  
21 worker --

22 MR MACAULAY: Well, I think you tell us he -- the report to  
23 the social worker was when he was 18 or 19.

24 A. Yes, that's right.

25 Q. And taking his date of birth to be 1969, that would

1           probably place that report in 1987/1988. And if the  
2           social worker had done something about it --

3   A.   Yes.

4   Q.   -- then the impact of that essentially would have been  
5           to possibly result in the criminal trial being  
6           instituted sooner than it was?

7   A.   Yes, that's true, yes. If that report had been taken  
8           seriously --

9   Q.   Yes.

10  A.   -- and followed through, it's another example of one  
11           that could have brought the police inquiry forward  
12           earlier.

13  Q.   But by that time, I mean, both Glenallan and Clerwood of  
14           course had shut down.

15  A.   Had closed, yes.

16  Q.   Then, if we go on to page 61, you have a section dealing  
17           with 'Glenallan behaviour', where the heading is:

18           'Three staff said to have resigned at the one time.'

19  A.   Yes.

20  Q.   And you were told by two former residents that three  
21           members of staff had resigned simultaneously in  
22           an attempt to draw attention to concerns:

23           'Two of these staff members confirmed to us that  
24           they and another staff member had discussed their  
25           growing concerns in relation to poor management at

1 Glenallan and they had jointly decided they would resign  
2 simultaneously ...'

3 But what then was the result of this?

4 A. There was debate about whether the third member of staff  
5 actually ever did hand in their resignation.

6 Q. Yes.

7 A. So it wasn't quite clear if it was two or three. And  
8 the first thing that's notable about it is staff doing  
9 the same thing as young people and resorting to  
10 behaviour, in the hope that it would attract the  
11 attention of senior managers and get them to ask  
12 questions, because they did not feel that they were able  
13 to present the information to senior managers in a way  
14 that was going to get taken seriously.

15 But the second part of it was that there was such  
16 high turnover at the time that apparently, I think if  
17 three had resigned it would have been -- perhaps made  
18 more of an impact, but only two resigned, and that was  
19 not particularly unusual at the time.

20 So it was a failed attempt to draw attention to the  
21 concerns that the staff had about the management in  
22 Glenallan. They were afraid of -- it says it might have  
23 appeared 'petty and insignificant'.

24 Again, that's one of these things where, when  
25 talking to staff -- I mean, when we actually started

1       this inquiry, there was one very recent case that had  
2       just started at the time and we talked to staff in the  
3       unit and, looking back, they were all embarrassed and  
4       slightly horrified at small signs that each of them  
5       individually had thought, 'That's a bit odd', but they  
6       had never put it together and had never felt it was  
7       something significant enough to ring the alarm bells  
8       about, you know.

9               So I think that's -- a lot of the issues we put into  
10       recommendations about making sure supervision was  
11       a proper safeguard and included all of these things, was  
12       trying to create an environment where people could raise  
13       that kind of an issue and develop it in a conversation.

14              But it is, it is important that staff do feel  
15       confident in raising issues and we looked at ways of,  
16       you know, like we mentioned I think Barnardo's videos  
17       and things like that, about whistleblowing.

18              But whatever the reason, that staff -- those members  
19       of staff at that point felt they could not directly and  
20       effectively raise the issues, and they wanted to alert  
21       senior management so that senior management would ask  
22       them questions.

23    Q.    But that didn't work?

24    A.    No, it didn't work. It didn't work; yeah.

25    Q.    But if I take you to the section where you look at the

1 summary of themes arising from the past, that's on  
2 page 91, and just focus on some of what you say. And at  
3 4.227 --

4 A. Yes.

5 Q. -- what you say is:

6 'Despite the existence of some outside links, the  
7 homes were experienced by the children as self-contained  
8 with a lack of significant outside supervision or  
9 involvement.'

10 And that was the conclusion you came to?

11 A. Yes.

12 Q. That they were very much self-sufficient with a lack of  
13 supervision?

14 A. Yes. With a lack of supervision, even when senior  
15 management possibly thought there was supervision, where  
16 they had advisers or assistant principal officers, and  
17 I think somewhere in the report it says that - page 37  
18 of the report - children had the opportunity to speak to  
19 assistant principal officers, but that's not really  
20 an opportunity that the child would take.

21 So there are these bogus safeguards that are  
22 sometimes written into the system that don't have any  
23 particular relevance or impact, and that is the way the  
24 children saw it.

25 Going back to another issue which you have already

1           discussed, you know, I was involved in the Quarriers,  
2           Time to be Heard, and one of the things that occurred to  
3           me was that in Quarriers, children were more aware of  
4           where they could go.

5           I think that -- in my impression, I don't know if  
6           it's borne out by evidence, was because of that  
7           environment that they lived in, it was clear -- they  
8           were certainly subject to the authority of the officers  
9           in charge, but it was clear that there were bosses out  
10          there as well, you know, or other people they could talk  
11          to.

12          But in these units, it wasn't clear to them. They  
13          weren't living in an environment where external  
14          safeguards were on the doorstep, you know, and it wasn't  
15          a real thing to them.

16   Q.   And you mentioned at 4.229, we have touched upon this,  
17          that:

18                 'Recruitment practices were generally poor.  
19                 MacLennan was able to move from one job to another on  
20                 the basis of references which were less than open and  
21                 honest.'

22   A.   Yes.

23   Q.   We've touched also upon Gordon Knott's youth and lack of  
24          experience.

25   A.   Yes.

1 Q. And at 4.232 there is a section about 'Why did they not  
2 tell':

3 'The abuse often started when the children were too  
4 young to realise it was wrong. It sometimes seemed to  
5 the children that other staff must have known what was  
6 going on. They were reluctant to tell about the abuse  
7 because they felt no one would believe them. They felt  
8 stigmatised by being in care. They felt others thought  
9 they were in care because they had been bad. They would  
10 not even tell people they liked, because they were  
11 afraid of the consequences. They might be moved  
12 somewhere worse, or things might just get worse in the  
13 unit.'

14 I think we've touched upon this point --

15 A. Yes.

16 Q. -- as we've gone along.

17 The next paragraph:

18 'Children's most tender feelings were exploited. In  
19 some cases, the child experienced the abuser as a father  
20 figure and was encouraged to do so. In other cases,  
21 concern for their relationship with siblings, and  
22 threats about splitting them up, kept children from  
23 telling.'

24 Is that again what happened?

25 A. Yes, yes.

1 Q. Page 23 (sic), where you have a number of conclusions,  
2 if I just pick up what you say at 4.251:

3 'Having met with many of the victims of the abuse by  
4 Knott and MacLennan, we are very aware of the emotional  
5 pain involved in repeating their stories to us and in  
6 witnessing yet another round of public debate about  
7 events that were experienced by them as very private and  
8 individual hurts.'

9 And you say:

10 'We owe an enormous debt of gratitude to them for  
11 their co-operation in [your] report.'

12 And you did get very good co-operation, that many  
13 did come and speak to you?

14 A. Yes.

15 LADY SMITH: And some of them were doing it against  
16 a background of also having had to give evidence in  
17 public at the trial.

18 A. That's right. I think, you know, we were -- it was  
19 amazing that they felt able to do it. But a lot of them  
20 were concerned, they were concerned that lessons would  
21 be learned. You know, there was this feeling of trying  
22 to make sense somehow of the pain that you had suffered,  
23 if it helped people in the future.

24 MR MACAULAY: And the final comments you make on page 94, in  
25 this context:

1           'For staff and management too, the setting up of the  
2           inquiry and the recalling of memories in light of the  
3           revelations about the abuse has been a painful  
4           experience. Many have told us how they have gone over  
5           matters in their minds repeatedly and tried to identify  
6           whether there was anything they could or should have  
7           done to identify and stop the abuse. As one former  
8           member of staff commented: "At the end of the day,  
9           I wish we could get together with these kids and say,  
10          'We're really sorry, we let you down'."

11       A. Yeah.

12       Q. So that was the message you got from the staff?

13       A. That's right. I mean, there were a lot of really good,  
14       caring people involved in the system. I wouldn't like  
15       to leave the impression that it was riddled with people  
16       who only cared about their jobs or didn't care about  
17       children. You know, that wasn't true. There were some  
18       people who were just stuck in the career because they  
19       had nowhere else to go and they had no qualifications.  
20       But even some of them with no qualifications did really  
21       care as well.

22                So I don't want to give the impression that the  
23       place was riddled with people who didn't care. There  
24       were some very caring people who, in retrospect, could  
25       see how things had gone wrong and who wished that they

1 had been in a position to make it better.

2 Q. Thank you for that.

3 Can I then leave your report aside and look at the  
4 article that you wrote. It's INQ-0000001288.

5 This is in the Scottish Journal of Residential Child  
6 Care. Do you have a date you can --

7 A. Now --

8 LADY SMITH: It's impossible, I couldn't find one from the  
9 article itself.

10 A. I don't have it here but I could -- a few years ago.

11 Now, it was certainly after I met your team the first  
12 time, which was 2017. I think it may be around 2021 or  
13 something.

14 MR MACAULAY: And I think what we refer to as The Promise,  
15 that had kicked off, so to speak?

16 A. Yes.

17 Q. Is that --

18 A. It was certainly under development at the time and I was  
19 aware of it.

20 LADY SMITH: And one of your footnotes does refer to  
21 a Scottish Journal of Residential Child Care volume of  
22 2016.

23 MR MACAULAY: Yes.

24 A. Oh, right. It could have been --

25 LADY SMITH: So it's obviously after that had been

1 published.

2 A. Yes, after that, yes. Yes, and after I met the team  
3 here in 2017.

4 MR MACAULAY: If I turn to page 2 of the article, we can see  
5 the title is 'Legislating for Love'.

6 A. Yes.

7 Q. And you begin by making the point that:

8 'This is not an academic paper.'

9 A. Yes.

10 Q. Can you just elaborate upon that, why you are making  
11 that point?

12 A. Well, I made that point because it was an academic  
13 journal, and if you're writing an academic paper, you  
14 usually have lots of references and evidence from other  
15 people and other reports, and I felt this, it wasn't  
16 that. I said it was a personal reflection.

17 A lot of the information that I have gathered over  
18 the years has been from listening to people, in both  
19 formal and informal things. People on the advice line,  
20 people having coffee, waiting in a queue for lunch,  
21 young people around the office. All sorts of things  
22 like that.

23 So there wasn't kind of evidence for these  
24 conclusions that I could point to; it was just the fruit  
25 of my experience, if you put it like that.

1 Q. And what you say this article represents is:

2 'My groping towards some kind of vision of what  
3 a care system might look like that provided a truly  
4 loving environment for the children and young people it  
5 embraced.'

6 A. Yes.

7 Q. So you are groping towards that --

8 A. Groping towards it. I mean, I can't claim to have got  
9 the answer. And I put some suggestions at the end, but  
10 it was really just casting things out for discussion,  
11 not hard proposals about how you can create  
12 an environment that fosters loving relationships.

13 But one of the things, I think even though it's  
14 quite difficult to pin down exactly what's going to make  
15 this love in residential care come right, what you can  
16 certainly do is identify things that make sure it  
17 doesn't happen. You know, things like multiple  
18 placements. Things like siblings being separated.  
19 Things like changing school and just the general lack of  
20 support and the feeling of discomfort that young people  
21 have sometimes, you know, if they feel that they're just  
22 there on sufferance.

23 At the beginning of the Leaving Care Report that  
24 I wrote as Children's Commissioner, I explained how that  
25 actually arose out of meeting two young people at

1 an event. And they were 16 and they'd both been given  
2 what they called 'notice to quit', because they had  
3 approached 16. And they were quite upset about it, you  
4 know.

5 So it's -- that's one of the things that doesn't  
6 make young people feel loved, you know: 'Well, you've  
7 got to get out of here because we need the places for  
8 younger people coming through the system'. Or: 'You've  
9 got to get out and we're going to put you in a bed and  
10 breakfast establishment or a homeless hostel, in one  
11 case with a convicted murderer as a fellow resident',  
12 you know.

13 So there's all these messages that come from the  
14 system. And, again, I'm not saying -- I met some --  
15 I've met some fantastic people throughout my career who  
16 really have managed to give young people a sense of  
17 belonging and affirmation and love, you know, both in  
18 residential care and foster care, and it's quite  
19 a difficult thing to define, but I think we have to have  
20 the vision and we have to know what acts against it,  
21 what is likely to nurture it, and try and refine that  
22 for each individual young person.

23 Q. And you set out the experience that you bring to this  
24 issue and we've looked at that, and then at page 3  
25 you've got a heading, 'What we already know'.

1 A. Yes.

2 Q. 'Children and young people living apart from their  
3 families face particular obstacles in satisfying the  
4 universal need to [be] loved. Within the residential  
5 care system, some of the systemic obstacles are well  
6 known, such as the issue of multiple placements, but the  
7 personal dimension, the "love" factor, is more  
8 complicated.'

9 You go on to say that in recent years a lot has been  
10 written about that.

11 A. Yes, yes.

12 Q. And you draw attention to the Independent Care Review --

13 A. Yes.

14 Q. -- which is ongoing.

15 But then the next section, can you summarise the  
16 next section for me, because you ask the question at the  
17 top:

18 'What do we mean by "love"?'

19 In this context.

20 Can you tell me what you mean?

21 A. I think there are issues of kindness, feeling special  
22 and an enduring commitment.

23 The feeling special thing is, I think, quite  
24 important for young people. I mean, they often comment:  
25 'So-and-so is only doing this 'cause they're getting

1       paid for it'. You know, and they like to know that  
2       they're special.

3             And the enduring commitment, that it doesn't just  
4       stop when they're put out the door of care at 16 or 18  
5       or whatever it is.

6             And they like to -- I mean, there have been  
7       instances -- I hope it's better now, I think some of  
8       this has changed -- where children were positively  
9       forbidden to go back to the places that they'd been  
10      living, and particularly if it was residential schools.

11            There was one young girl apparently used to phone up  
12      crying and begging to be able to go back, and the school  
13      felt they couldn't let her come back.

14            So there are these barriers to achieving it, and  
15      they make young people feel not valued and not cared for  
16      and that the system has done a job on them and they're  
17      out and they're on their -- more or less on their own.

18            I think some of that is better, and I do think The  
19      Promise -- I'm completely in line with the values of  
20      The Promise and I know they're trying to make progress  
21      with this and there's always going to be some barriers,  
22      but I think it's something that we have to do, because  
23      if we're not doing it, what's it's all about, you know?

24    Q. You set out three points, I think, towards the bottom  
25      part of that page: feeling valued, feeling special and

1 enduring commitment?

2 A. Yes.

3 Q. And I think it's the second two in particular that are  
4 problematic?

5 A. Yes.

6 Q. How many truly special relationships can one person  
7 maintain? How do you ensure every child has at least  
8 one special relationship? And would the requirement for  
9 a commitment that goes through and substantially beyond  
10 the young person's time in care be too demanding? Is  
11 there a need for boundaries to prevent workers from  
12 being -- becoming overwhelmed?

13 Is there a need for boundaries?

14 A. Yes, I think -- I concluded that there is a need for  
15 boundaries, both for workers and for young people,  
16 because young people have boundaries too, because a lot  
17 of them have been very hurt in the past, and if you  
18 encourage them to lower their boundaries on the basis  
19 that you're going to be their special friend and then  
20 you betray that, you know, it's another hurt that really  
21 damages them.

22 But workers too have to have some boundaries because  
23 they've got their own lives, you know.

24 Q. Yes.

25 A. And you're not doing anyone a favour if you put workers

1 in a position where they're feeling overwhelmed by the  
2 demands made upon them, especially if they're caring  
3 people. You know, a lot of them will get into that  
4 because they do care for these young people and they  
5 want to do what's best for them. But there has to be  
6 a support system for the staff as well to make sure that  
7 we don't have unrealistic expectations of what they, as  
8 individuals, can provide.

9 And I think that's -- that is a difficult one and  
10 I've wrestled with it, with how it can be done. But  
11 I think it has to be built around each individual young  
12 person, you know, and looking at their strengths and  
13 their relationships and making sure that people who  
14 support them are being supported to support them.

15 LADY SMITH: Kathleen, just going back to the question of  
16 the date, I've been passed a note suggesting that this  
17 was published on 31 March 2020. Would that fit?

18 A. It could be. That could be that, yes. That's quite  
19 possible.

20 LADY SMITH: You would have written it sometime before  
21 then --

22 A. Well, they always --

23 LADY SMITH: -- it would have gone to the journal, and then  
24 they would publish it.

25 A. These journals always have a process of editing and

1           passing around people, et cetera, so, yeah.

2   LADY SMITH: Thank you.

3   A. But that sounds quite a likely date, yes.

4   LADY SMITH: Thanks.

5   MR MACAULAY: You point out on page 6 in relation to your

6           conclusion, looking at that particular section, it says:

7           'The institutional models of the past cannot be seen

8           as a fertile ground for loving relationships.'

9   A. Yes.

10   Q. These models, I think, have clearly failed in what they

11       set out to do?

12   A. Yes, like the Clerwood model for example. You know, the

13       big institutions with rows of cots and children.

14       I mean, sometimes children are regarded as commodities.

15       I mean, I know that was a Dean House one but, you know,

16       a voluntary organisation needing to get a group of

17       children in to balance the books. They used to talk

18       about MacLennan going to the meat market to get children

19       for the organisation, you know.

20           So that was -- there's issues about institutions

21       sometimes serving their own interests, and children just

22       being the pawns within that.

23   LADY SMITH: We certainly saw, and Mr MacAulay will remember

24       this very well, as will Ms MacLeod, examples of that

25       happening in the context of child migration.

1 A. Yes.

2 LADY SMITH: And one particular reverend who came, if you  
3 like, shopping round Scotland for children who could be  
4 recruited to be migrated to either Canada or Australia.

5 A. Yeah.

6 MR MACAULAY: If I can take you then to the section on  
7 page 9, where you ask the question:

8 'Which is more important - the system or the  
9 people?'

10 A. Yes.

11 Q. And can you just develop that for me, as far as the  
12 system is concerned, what do you say about what the  
13 system should be?

14 A. I think the system, there has to be a system to provide  
15 the safeguards and the monitoring. You can't just, for  
16 example, put children into some kind of alternative  
17 family environment of the whole swathe of possibilities  
18 without making sure that that is a safe environment and  
19 that it's appropriate for the young person and that's  
20 there's going to be monitoring of what happens  
21 et cetera.

22 All of that means that you've got to have a system,  
23 but the system isn't going to work well if it's not  
24 peopled -- populated by caring and loving people.

25 Q. But the thing you say about the system is that the

1 culture in the system must be a listening one?

2 A. Yes.

3 Q. By that, I think you mean the children must be listened  
4 to?

5 A. Yes.

6 Q. That's what you talk about on page 9 --

7 A. Yes, that's right. I see that.

8 Q. -- you go on to talk about the character of the carers  
9 must be absolutely crucial?

10 A. Yes.

11 Q. And I think you have already talked about this, how in  
12 past it was easy for inappropriate people to be involved  
13 in the care system?

14 A. Yeah. Yes, that's right. It's what are your criteria  
15 for approving someone for the care of children.  
16 Although one of the, again, complexities of that, which  
17 we referred to in the Edinburgh Report, was that  
18 sometimes the characteristics of people you think would  
19 be good for working with children are very, very similar  
20 to the characteristics of those who abuse children. You  
21 know, it's not old men in dirty raincoats sort of thing.  
22 It's people who sometimes have a charisma and who  
23 children are attracted to and who can get their trust  
24 and that is the problem, is that once you have appointed  
25 people, there still have to be eyes watching and there

1 still have to be -- in particular we talked about the  
2 listening mechanism -- there have to be ways for  
3 children to raise their concerns with somebody that they  
4 trust and that they trust will believe them and that it  
5 will not lead to things actually getting worse.

6 LADY SMITH: Going back to something you said earlier  
7 though, Kathleen, before children can do that, they need  
8 to understand what should and should not happen to them.

9 A. Yes.

10 LADY SMITH: And when something that is happening from this  
11 nice, charismatic person, who generally they like being  
12 with, when that amounts to abuse. Now, they may not use  
13 language 'abuse', but they need to understand what  
14 should and should not happen and what they should then  
15 talk to somebody else about.

16 A. I think we've got better at that in recent decades.  
17 There's been a lot of programmes: sort of feeling yes,  
18 feeling nos, one going way back and I don't know what  
19 they are now, and certainly even hearing what my own  
20 grandchildren are getting told at school, I think they  
21 do get some information. How real it is to them, you  
22 know? I don't know, but you hope that it will trigger  
23 something if they do feel uncomfortable about something.  
24 But it is crucial that they -- and especially with all  
25 of the stuff that's on the internet now, I mean, it's

1 quite shocking some of the stuff that very young  
2 children have access to and the kind of behaviours that  
3 are normalised and that probably makes some of these  
4 messages a bit more complex, you know, especially --  
5 even as they get older, what is actually normal in  
6 a situation.

7 LADY SMITH: Would you add to that the modern challenge of  
8 the much earlier puberty that we're having to address?

9 A. Yes, yes.

10 LADY SMITH: It can be as young as 8 in girls and not much  
11 after that in boys.

12 A. Yeah, yeah, the children grow up very quickly. At least  
13 they look as if they're grown up. Yeah, there are all  
14 sorts -- it's a constantly changing picture as well,  
15 about how you get these messages across to children,  
16 informing them, but not alarming them, so that they do  
17 at least know that there is something that they should  
18 be able to speak about.

19 MR MACAULAY: And this particular section you conclude on  
20 page 10 halfway down:

21 'My conclusion is that both systems and people are  
22 important. You need an effective system to ensure safe  
23 recruitment practices and to monitor what is happening  
24 in interactions between carers and their charges, and  
25 you also need to ensure that those recruited are open to

1 warm and loving relationships with the children and the  
2 young people in their care.'

3 A. Yes.

4 Q. That's your conclusion?

5 A. Yes.

6 LADY SMITH: Can I explore one thing with you there,  
7 Kathleen, and in a way you've answered it already  
8 earlier on, and it is the concept of love.

9 A. Yes.

10 LADY SMITH: And I think from something you said, you'd  
11 agree you can't say to a member of staff: you have to  
12 love every child that you're responsible for working  
13 with. And indeed, once you start thinking about it,  
14 creating loving relationships in terms of the way love  
15 is used in adult life, for example, isn't really what  
16 you're aiming at. But you're aiming at, and again you  
17 deal with this, children feeling well cared for, feeling  
18 valued, feeling that there is at least one person who  
19 does treat them as special, and perhaps moreover feeling  
20 that everybody in the institution who engages with them  
21 is committed to doing the best that they can for that  
22 child, so that the outcome is the child feels safe; have  
23 I got that right?

24 A. Yes. The outcome is that the child feels safe, but the  
25 child also wants to feel loved and however difficult it

1 is for us as adults to grapple with that, that is the  
2 consistent message and that's us trying to -- in that  
3 paper I was trying to kind -- while recognising what the  
4 difficulties are, I was trying to grapple with it and  
5 make some sense of it and I think it should be an  
6 aspiration.

7 But what you ask, you know, what does love mean, is  
8 of course the very basic question, but it's used in the  
9 UN Convention on the Rights of the Child that a child  
10 should be brought up in an atmosphere of happiness, love  
11 and understanding.

12 LADY SMITH: That's different. That is not the same as  
13 effectively writing into a contract of employment of  
14 this sort: you have to love the children you engage  
15 with. You have to love them as individuals.

16 A. I don't think writing it into a contract of employment  
17 would be appropriate or effective and in fact I think  
18 I said that near the end of my paper that:

19 'Love thy neighbour has been a religious command for  
20 millennia, but not even the threat of eternal torment in  
21 the fires of hell has forced religious people to  
22 comply.'

23 LADY SMITH: And then you'd have a debate about the  
24 translation that led to the use of the word 'love' in  
25 some translations of the Bible, I suppose.

1           But just going back to the problem with the child,  
2           say I work in an institution and I represent the child,  
3           I love them, but, you know, another job comes along  
4           somewhere else or because of my husband or partner,  
5           I have to move hundreds of miles away, and I say bye-bye  
6           to them, and you've already talked about the problem  
7           with boundaries, and you couldn't say to the member of  
8           staff: 'Ah, but you have committed to that child that  
9           you love them, so just as if you were their mother or  
10          their sister or their auntie, you have got to stay in  
11          close touch with them'.

12           So the child is going to then feel: 'It was great  
13          when that person was here. I felt properly cared for.  
14          I felt they were committed, but this isn't what love  
15          means, is it? Is this what loves mean? I have no  
16          confidence in it'.

17    A. I think it's exactly the dilemma I was trying to address  
18          because that does happen to workers. And I also was  
19          trying to make the point that you cannot -- you're  
20          betraying young people if you encourage them to lower  
21          their boundaries and expect this life-long commitment  
22          and then you withdraw from it.

23           And I suppose that's why when I was talking about  
24          towards a vision of the future, I was trying to look for  
25          something that also is maybe a small group of people,

1       you know, this is just me throwing out ideas to address  
2       what I think is a very difficult problem. And I think  
3       we can still -- we can have love as a vision, but not as  
4       part of a contract, you know, and I think when it's  
5       a vision, you're always trying to create the situation  
6       in which the child has some nurturing and loving  
7       relationships and you have always to be aware of what  
8       happens if there is a rupture in that relationship.

9             And I don't presume to have, you know, the complete  
10       answer to that. I've only got some ruminations and  
11       that's why I say it's a vision and we have to remove the  
12       obstacles to happen which at certain periods have  
13       certainly been -- permeated the system the way young  
14       people were treated.

15            If you can remove the obstacles and we should always  
16       have in mind that a priority is trying to nurture,  
17       create a loving environment for young people, because  
18       they're going to keep saying that, you know. No matter  
19       what we say and how we argue about the words, this is  
20       the message from young people and because that's what  
21       they're saying, we have to take it seriously and try to  
22       find a way to do the best we can to achieve it.

23   LADY SMITH: Yeah, well, we also learn, as adults, that we  
24       have to teach children that we can't deliver everything  
25       that they say they want, don't we?

1 A. No, I think that's true as well. And I don't think we  
2 should make unrealistic promises to children, but they  
3 should know that we are doing our best with them to  
4 satisfy their needs and the thing is it is a need. It's  
5 a human need. It's not just a desire, which is another  
6 love-related word. There is a human need to be loved  
7 and some children feel unloved and that's a tragedy.

8 LADY SMITH: But is there a human right to be loved?

9 A. An atmosphere -- I think it's a human need -- if you say  
10 'right' we could get into all the philosophy of then  
11 what you mean by the word 'right' in that sense, and  
12 I think the way the UN Convention did it was they put it  
13 in the preamble. There isn't a specific kind of right  
14 to be loved, but it recognises that the context of all  
15 of these and the best condition for human flourishing is  
16 for children to be brought up in an atmosphere of  
17 happiness, love and understanding and we have to do our  
18 best to create those conditions, even though recognising  
19 that it's an enormous challenge.

20 MR MACAULAY: Yes, you quote the Convention on page 11:

21 'The child, for the full and harmonious development  
22 of his or her personality, should grow up in a family  
23 environment, in an atmosphere of happiness, love and  
24 understanding.'

25 A. Yes.

1 Q. But if we look to your vision, Kathleen, for the future  
2 then, beginning at page 13, you set out a number of  
3 points that are contained in that vision. I mean, for  
4 example, at 1:

5 'A residential childcare system built on love, would  
6 need to make space for the nurture of special and  
7 enduring relationships in a way that recognises the  
8 needs of both the children and the workers.'

9 A. Yes.

10 Q. And you go on over a number of -- you make a number of  
11 points, at 6, for example, which I think you see as  
12 important:

13 'The system should also take care that workers are  
14 not overwhelmed by the demands placed upon them.'

15 A. Yes.

16 Q. Now, you did mention this in passing, this is on  
17 page 16, when you pose the question:

18 'Can you legislate for love?'

19 And you tell us, I think, you just touched upon this  
20 in response to her Ladyship, that it doesn't involve  
21 inserting love into the job description, for example, of  
22 care workers?

23 A. Yes.

24 Q. And your point is that:

25 'We cannot command love but we can and should aspire

1 to it. We should name it as our aspiration and do our  
2 best to create the conditions in which it can be  
3 nurtured.'

4 So that's your overall conclusion?

5 A. That's my overall conclusion, yes.

6 Q. I now want to go very briefly to the Edinburgh Report  
7 just to pick out one point.

8 A. Yes.

9 Q. And this is on, I'll put it back on the screen, it's  
10 SGV-000024049. You have a section well on into the  
11 report, page 228, that's headed:

12 'Inappropriate Placements.'

13 A. Yes.

14 Q. What you say at 15.1:

15 'We referred to this matter in Chapter 8 in  
16 connection with the issue of risk taking. We indicated  
17 that a major theme running through the staff response to  
18 the inquiry's investigations was that inappropriate  
19 placements posed a serious threat to the safety of  
20 children looked after by the council.'

21 And I think this is where you refer to the  
22 performance issue?

23 A. The performance factor is relevant to that, because  
24 there were some institutions that we visited that were  
25 clearly unsafe for children and inappropriate for the

1 children who were placed in them.

2 The problem was -- I think the situation had  
3 probably already been difficult in terms of resources,  
4 but as a result of budget cuts, the council had  
5 introduced what was called a performance factor. And  
6 this meant that there were budget cuts across the board  
7 for all departments, including residential care.

8 So the council were having to keep vacancies  
9 unfilled, for example, and not do things that presumably  
10 they would otherwise have done in improving facilities  
11 and this just seemed to us to be completely  
12 unacceptable. Because children can never be regarded as  
13 just a subject heading, and we kind of made the point  
14 that if you were a parent and you were brought up on  
15 charges of neglect and you said: 'Well, we had to reduce  
16 our expenditure, so we cut down the care of our children  
17 to the extent that they're now neglected', that would  
18 not be accepted, you know.

19 And a local authority that's taken children from  
20 their homes on the basis that it's going to make life  
21 better for them cannot then regard them as being on the  
22 same level as repairs and maintenance or other costs.  
23 They must have a special place and that's one of the  
24 reasons why we called it 'Edinburgh's Children' because  
25 there has to be a sense of ownership of the children

1           that you have taken on the responsibility of caring for,  
2           and I think they did get that, they did get that point,  
3           and I think that was one of the first things they did  
4           was they disappplied the performance factor to these  
5           services.

6           But it shows a mindset, you know. I think that's  
7           a mindset about how you value children that it's even  
8           considered appropriate to do that.

9    Q.   And it was one of your recommendations. I think,  
10        recommendation 40?

11   A.   Yes.

12   Q.   That this performance factor should not be in play?

13   A.   Yes, it was. Yes, we were very vocal about that one.

14   LADY SMITH: You mentioned an example of vacancies, for  
15        example, being kept unfilled.

16   A.   Yes.

17   LADY SMITH: Can you explain to me why that shows how  
18        inappropriate the performance factor was?

19   A.   Because they'd be taking on -- I mean, in a way it's --  
20        in a way it sounds self-defeating because in some cases  
21        they had to employ more locums to do the work, but they  
22        also did have fewer people on, for example, fewer people  
23        on the nightshift and things like that. There were  
24        cases where children couldn't go out to activities or to  
25        things like Who Cares? groups, you know, where they're

1 getting their personal support, because there were no  
2 staff available to take them there. And if you've got  
3 too few people on nightshift, for example -- one of the  
4 examples we were given was somebody had to take a child  
5 to hospital which meant there was only one person left  
6 on nightshift in a possibly unsettled unit. So these  
7 things have major implications for children and I mean  
8 even apart from how well the facilities -- I mean,  
9 everyone knew that -- about the resources that we said  
10 were a major threat to the children's safety. The  
11 council acknowledged that these resources were not  
12 appropriate, but they just -- it's that the resource  
13 situation is dire.

14 MR MACAULAY: What you say --

15 A. The comments is the comments of staff, I think,  
16 actually, you know, on page 228.

17 Q. You set these out but if we look at your conclusion on  
18 page 237 at 15.57, what you say is:

19 'We are very aware that many of the issues we have  
20 identified in this regard are already known to senior  
21 management and that lack of resources lies behind the  
22 failure to address them effectively. We consider that  
23 our recommendation above, about a principled corporate  
24 approach to supporting more children within their  
25 communities, together with a necessary decision by the

1 council as a whole to exclude residential care from  
2 application of the performance factor, will go some way  
3 to addressing these matters. It will also improve  
4 morale in the sense that the young people and children  
5 and those who care for them will feel that they are owed  
6 (sic) and supported by the council as a whole and the  
7 wider community which it represents.'

8 And I think you say that the council took that on  
9 board?

10 A. Yes, they did.

11 Q. But it was well known that there was this gap that was  
12 impacting upon the care of the children?

13 A. Yes, and I think people sometimes feel quite  
14 disempowered in terms of how to take it forward and that  
15 also feeds into how open people are to talk to you about  
16 it, because I mean I've come across this in several  
17 occasions, different parts of my work, where workers and  
18 managers know that something is wrong, but they fear --  
19 and it may not be their fault, their personal individual  
20 fault -- but they fear that if they raise the issue,  
21 it's reflecting badly on them and on their institution  
22 and that makes it very difficult for them to raise it  
23 and it can lead to a sort of defensiveness. But it's  
24 an intolerable situation for the workers and the  
25 management to be in.

1 I mean, I'm sure that the management knew how bad  
2 these institutions were. They just felt they were out  
3 of options. That's the problem.

4 Q. And your recommendation, recommendation 40, on page 272:

5 'It is our clear view that it is unacceptable to  
6 compromise the safety of children by requiring that some  
7 posts remain unfulfilled in order to cut costs. We  
8 therefore recommend to the council, in the strongest  
9 terms, that residential childcare units be exempted from  
10 the application of the performance factor in relation to  
11 staffing.'

12 A. Yes.

13 Q. And I think the position is that that was taken on  
14 board?

15 A. Yes, it was, yes.

16 Q. And indeed is it the case, and I think that the research  
17 by the Inquiry can confirm this, that your 135  
18 recommendations have effectively been taken on board by  
19 the council?

20 A. Yes, that's my understanding.

21 Q. Well, thank you very much, Kathleen, for speaking to  
22 your report and also your aspirational, if not  
23 inspirational article.

24 A. Thank you.

25 MR MACAULAY: My Lady, I have not received any questions to

1 put to Kathleen.

2 LADY SMITH: Thank you.

3 Kathleen, can I just add my thanks. It's been so  
4 good to have you here this morning and for you to allow  
5 us to press you and delve deeper into your thoughts on  
6 this hugely important topic. As you know, it can't be  
7 overemphasised in its importance.

8 Well done with that report. It's as alive in its  
9 interest and relevance today as to was at the time.  
10 Thank you.

11 A. Thank you very much.

12 LADY SMITH: Now, feel free to go and I hope you have  
13 a restful afternoon ahead.

14 (The witness withdrew)

15 LADY SMITH: Mr MacAulay.

16 MR MACAULAY: My Lady, that's the evidence for today. We  
17 have another oral witness tomorrow morning.

18 LADY SMITH: Very well. I'll rise now until 10 o'clock  
19 tomorrow morning. Thank you.

20 (12.57 pm)

21 (The Inquiry adjourned until 10.00 am  
22 on Friday, 24 April 2026)

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