

1 Monday, 7 October 2019  
 2 (10.00 am)  
 3 THE CHAIR: Good morning, everyone, and welcome to Day 6 of  
 4 this public hearing. Ms Scolding?  
 5 MS SCOLDING: Good morning, chair and panel. We start today  
 6 into a week's worth of evidence about children in  
 7 specialist residential settings. The first witness is  
 8 Dame Christine Lenehan.  
 9 DAME CHRISTINE LENEHAN (sworn)  
 10 Examination by MS SCOLDING  
 11 MS SCOLDING: Good morning, Dame Christine, and thank you  
 12 for coming. I have a few things to say to you before we  
 13 start asking questions.  
 14 Firstly, this isn't a test of memory. Please feel  
 15 free to refer to your witness statement, any other notes  
 16 or any other documents which you have in a bundle in  
 17 front of you.  
 18 Secondly, we can stop at any time, and for any  
 19 reason. If you do need to stop, please raise your hand  
 20 and tell me so.  
 21 Thirdly, I have already mentioned the paper bundle.  
 22 There is also a screen next to you. Any document I am  
 23 going to ask you to comment upon will come up on that  
 24 screen, so if you need another pair of glasses, like  
 25 I do sometimes -- you've got them with you; fabulous.

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1 **an inquiry at the time, recognised that there was no**  
 2 **national voice or forum for issues in relation to**  
 3 **disabled children and young people. So we were set up**  
 4 **to provide that national voice and forum, to work with**  
 5 **our membership and to work with local authorities and to**  
 6 **provide a voice that actually made sure disabled**  
 7 **children's rights were central in decision making and**  
 8 **that we were able to undertake pieces of work that**  
 9 **support the development of practice.**  
 10 Q. What does your role as director of this organisation  
 11 involve?  
 12 **A. That's a good question. We have a number of programmes**  
 13 **of work at any one time going on, in health, in**  
 14 **education, in social care, and in the participation**  
 15 **directly of young people and their families. We also**  
 16 **have a role working with government as a strategic**  
 17 **reform partner for education, and so my role, really, is**  
 18 **to bring the very different aspects of the council's**  
 19 **work together. So in any one week, talking to children**  
 20 **and young people, talking to their families and talking**  
 21 **to ministers, and really providing that line of sight**  
 22 **for the development of disabled children's policy and**  
 23 **the issues that affect them.**  
 24 Q. What work in particular does the Council for Disabled  
 25 Children do on those disabled children and young people

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1 Next, we will be publishing your statement in due  
 2 course, so I'm not going to be taking you through it  
 3 line by line. Could I ask you to turn to tab A/1 of  
 4 the bundle in front of you, which is your witness  
 5 statement. The last page is page 12 that I have. It is  
 6 dated 17 June 2019.  
 7 **A. Yes.**  
 8 Q. Can I just ask you to confirm, firstly, did you sign  
 9 this witness statement?  
 10 **A. I did.**  
 11 Q. Secondly, is it true, to the best of your knowledge and  
 12 belief?  
 13 **A. It is.**  
 14 Q. Dame Christine, you have a long and distinguished career  
 15 in working with disabled children and young people. You  
 16 have been a care worker, a social worker, you've managed  
 17 a transition programme for children from long-stay  
 18 hospitals, you've also worked for Barnardo's, and you  
 19 have been a director of the Council for Disabled  
 20 Children since 2003. Is that right?  
 21 **A. It is.**  
 22 Q. Can you tell us what the Council for Disabled Children  
 23 does?  
 24 **A. We were set up 40 years ago now, following**  
 25 **a recommendation from Dame Eileen Younghusband, who, in**

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1 who live outside the family home?  
 2 **A. We have always had an interest in disabled children**  
 3 **living away from home, because we know they are the most**  
 4 **vulnerable children they are. So we work with member**  
 5 **organisations -- NASS, Natspec, the representative**  
 6 **organisations, as part of council. We do some work**  
 7 **directly on safeguarding and we do some work directly on**  
 8 **ensuring that all children have access to communication**  
 9 **systems. Primarily, the last piece of work we have been**  
 10 **doing on this has been "Good Intentions, Good Enough".**  
 11 Q. I am going to ask you to talk about the two reviews you  
 12 have done recently in respect of disabled children who  
 13 live away from home. Your first review was called  
 14 "These are Our Children". It was commissioned by the  
 15 Department for Health and was submitted to the  
 16 government in the autumn of 2016. Please could you tell  
 17 us a little bit about that review and what it was about?  
 18 **A. So we'd had a number of high-profile cases of children**  
 19 **in assessment and treatment units at tier 4 of**  
 20 **the health service --**  
 21 Q. Perhaps you'd like to explain what "tier 4 of the health  
 22 service means"?  
 23 **A. Sorry, I will. The way that the health service works in**  
 24 **terms of levels of intervention is described as tiers,**  
 25 **in a rather old-fashioned way. Tier 4 describes**

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1 inpatient services. We had looked -- there had been  
 2 a number of scandals in relation to individual children  
 3 who had autism or learning difficulties and their  
 4 treatment in inpatient services, so-called assessment  
 5 and treatment units.

6 **There was another highly publicised case and**  
 7 **a Serious Case Review was done into that. I was not**  
 8 **investigating that, but I was asked by the Department of**  
 9 **Health to understand why these cases kept coming through**  
 10 **the system. So what was the systematic challenge that**  
 11 **led to a continual process of children, in effect, being**  
 12 **abused within the system.**

13 Q. You submitted that piece of work to the government, as  
 14 part of which you said that there needed to be  
 15 a separate piece of work to look at the role of  
 16 residential special schools and colleges for this group  
 17 of children. Is that right?

18 **A. It is. We were worried when we were doing the review**  
 19 **into the health services that actually a number of**  
 20 **children were coming into that system from the**  
 21 **residential school sector and that for some children**  
 22 **there was a revolving door system going on, and numbers**  
 23 **of concerns were being asked about safety in residential**  
 24 **special schools, and I think also it had been nearly**  
 25 **20 years since we'd looked properly at the sector and**

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1 special schools has declined significantly until 2010.  
 2 So when this report was produced in November 2017, there  
 3 were nearly 5,000 children in this setting; is that  
 4 right?

5 **A. Yes.**

6 Q. Does anybody know why there has been this reduction?

7 **A. There's been no significant research, though one of**  
 8 **the pieces of work that had been done that informed the**  
 9 **review was work across -- I think it was the**  
 10 **East Midlands authorities, looking at how to actively**  
 11 **reduce placements, and primarily that's been based on**  
 12 **cost. So some of this has been about a cost-driven**  
 13 **approach, as much as anything.**

14 Q. You identify four broad groups of children and young  
 15 people who, however, are likely to be in residential  
 16 special schools. Ralph, can we go to 009-010, please.  
 17 Could we get up 1, 2, 3 and 4. You identify four  
 18 groups. Firstly, those with autism, communication  
 19 difficulties, severe learning difficulties and  
 20 challenging behaviour. So that's the first group of  
 21 young people who tend, on the whole, to be sent to  
 22 residential education at some stage in their careers?

23 **A. Groups 1 and 2 make up 76 per cent of the children**  
 24 **within the system.**

25 Q. So that's those with social, emotional and mental health

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1 **understanding actually who are the children now and what**  
 2 **is the level of support that they need.**

3 Q. So you published that review, "Good Intentions, Good  
 4 Enough" in November 2017 and you carried it out along  
 5 with Mark Geraghty, who, I understand, was a trustee or  
 6 was involved with the Seashell Trust, which is one of  
 7 the organisations which is a core participant in this  
 8 part of the investigation. Is that right?

9 **A. Mark was chief executive at Seashell Trust and**  
 10 **Seashell Trust was an outstanding school. I am not**  
 11 **a teacher, I'm a social worker, and so we needed**  
 12 **somebody who had the understanding of education in**  
 13 **particular to support the review, and so that's why Mark**  
 14 **was a partner in it.**

15 Q. That review is behind tab B/1 of your bundle. The  
 16 review didn't particularly focus on safeguarding in and  
 17 of itself?

18 **A. No.**

19 Q. But it raised a number of issues which are central to  
 20 it, and what I really want to do is go through some of  
 21 that report to ask about your findings.

22 Ralph, please could you get up INQ004307\_008. Could  
 23 we go to the bottom paragraph? So the first thing you  
 24 identified in the bottom paragraph is that the number of  
 25 children and young people who board in residential

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1 needs and challenging behaviour?

2 **A. Yes.**

3 Q. What's meant by "social, emotional and mental health  
 4 needs"? It seems quite a broad range that we are  
 5 talking about. What sort of children are we talking  
 6 about practically?

7 **A. This is an interesting one. These children, up until**  
 8 **the 2014 Act, were children with BESD -- behaviour,**  
 9 **emotional and social difficulties.**

10 Q. Can we just say, the 2014 Act, that's the Children and  
 11 Families Act 2014, which restated a number of principles  
 12 about access to services for those with special  
 13 educational needs?

14 **A. It did, and in the process of doing that, it redefined**  
 15 **this group of children, because, by then, there was**  
 16 **a lot of evidence that actually these children were --**  
 17 **that, rather than describing these children through**  
 18 **their behaviour, what you wanted to do was describe**  
 19 **these children through the causes of their behaviour,**  
 20 **and often that was mental health needs. So most of**  
 21 **these children will be children who have had trauma and**  
 22 **attachment challenges in their life.**

23 Q. Just to sort of identify, we have tried to reflect that,  
 24 in that we have a school called Appletree who are coming  
 25 to give us evidence which is made up of those children,

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1 and also one has The Royal School Manchester, which  
 2 arguably falls into group 1, which we are also looking  
 3 at?  
 4 **A. Okay.**  
 5 Q. If we then go to 3, at the top of the next page, please,  
 6 Ralph, there are then those with profound and multiple  
 7 learning difficulties and health needs that require  
 8 intensive specialist support?  
 9 **A. Yes.**  
 10 Q. They are a much smaller group of young people; is that  
 11 right?  
 12 **A. Yes, a much smaller group.**  
 13 Q. Again, The Royal School Manchester is a school we will  
 14 be looking at later in the week, which deals with those  
 15 sorts of children.  
 16 The last group are those with a special educational  
 17 need or disability but moderate or no learning  
 18 difficulty, and they, on the whole, are, what, children  
 19 with visual impairments, hearing impairments?  
 20 **A. Yes, it was a difficult group to categorise, really. It**  
 21 **is a number of sort of one-offs. But, yeah, so they're**  
 22 **sort of specialist schools within the system, but,**  
 23 **again, they tend to be fairly bright children.**  
 24 Q. Again, I think we are looking at a couple of those this  
 25 week. We are looking at Stanbridge Earls and

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1 INQ004307\_043. Not all of these recommendations are  
 2 directly related to what I am going to call safeguarding  
 3 or child protection. Can we go about halfway down the  
 4 page. The first recommendation is that the Department  
 5 for Education publishes LA visiting guidance. Now, LA,  
 6 in this context, means local authority. Setting out  
 7 expectations for when local authorities should visit  
 8 children and young people in residential schools and  
 9 colleges. In fact, that guidance has been produced, and  
 10 we are going to deal with it later, a little bit later.  
 11 But do you have any general views about whether or not,  
 12 firstly, that guidance is good enough and, secondly,  
 13 whether local authorities visit often enough children  
 14 who are being accommodated by them or who are being  
 15 educated by them in those settings?  
 16 **A. So we have been calling for that guidance for quite**  
 17 **a long time pre the review. It was something that we**  
 18 **felt was a distinct gap in the system. I think one of**  
 19 **the real challenges in the system is that, actually,**  
 20 **education can place, social care can place, within the**  
 21 **system and depending who places, it sort of comes -- so**  
 22 **an education placement can be made, the welfare**  
 23 **checklist does not apply, and so the only person who**  
 24 **ever visits the school is somebody who is an**  
 25 **educationalist on an annual review, which we felt was,**

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1 Southlands. If you had to categorise it roughly, most  
 2 of the children would fall into category 4. But  
 3 I think, as we can see, they are a wide group and the  
 4 challenges of keeping those different groups of children  
 5 safe are extremely complex and challenging to manage.  
 6 Is that right?  
 7 **A. Yes.**  
 8 Q. You make a number of recommendations from the report.  
 9 Can I just identify, what did you do as part of your  
 10 review? What did you go and see and whom did you go and  
 11 see?  
 12 **A. In the end, we worked with the DfE analysts and took**  
 13 **10 per cent -- we took across 10 per cent of schools and**  
 14 **colleges to reflect the different groups of children and**  
 15 **to reflect the different geography and also to reflect**  
 16 **the different Ofsted ratings that schools have got. It**  
 17 **was a sort of snapshot of about 10 per cent of**  
 18 **the cohort to look at.**  
 19 Q. So some which were good, some which were seen as less  
 20 good by way of inspection, and ones which have different  
 21 sorts of children who are living within them?  
 22 **A. Yes, and ones which claim to do different things, so**  
 23 **things like therapeutic schools, for example. So**  
 24 **different schools doing different things.**  
 25 Q. If we can get your recommendations up -- Ralph,

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1 **frankly, not good enough. I think one of the things**  
 2 **that concerned us throughout the review was, you would**  
 3 **go into every single school and you would say, "How many**  
 4 **authorities do you take from -- 12, 14, 18, 20? How**  
 5 **many authorities visit?" It was never, ever more than**  
 6 **50 per cent of the authorities that were referring.**  
 7 Q. In particular, what the guidance recommends is that when  
 8 a child is first placed there, there should be what they  
 9 call quality assurance processes, so that all the  
 10 safeguarding policies should be checked, and then  
 11 there's a visit within three months and then a visit  
 12 every six months, from someone who knows what they're  
 13 looking for, particularly in respect of safeguarding.  
 14 Do you think that happens in practice?  
 15 **A. No. No, when the guidance came out, there was no real**  
 16 **publicity around the guidance and there's no training**  
 17 **around the guidance, and there's -- it's always been**  
 18 **quite complex, as children move across authority**  
 19 **boundaries, to work out who is responsible to do what**  
 20 **and how that works.**  
 21 The challenge for this group of children, in  
 22 particular the first two groups of the children, is that  
 23 they tend to be placed at crisis. So the planning that  
 24 you would hope happened for when a child moves  
 25 a considerable distance from home doesn't tend to

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1 **happen. So, for example, children won't necessarily**  
 2 **have communication plans or behaviour plans, things that**  
 3 **help people understand why they behave the way they do**  
 4 **or what they do. So you want that followed through.**  
 5 **But, again, if you are placed by education, who is it**  
 6 **who follows that through? Who has the expertise to**  
 7 **understand the child's whole life, not just the**  
 8 **particular challenge that placed them? And I go into**  
 9 **local areas and I say, "Why are you not visiting?" "Oh,**  
 10 **well, you know, we have got a million other things to**  
 11 **do", you know, all that sort of stuff. But these are**  
 12 **the most vulnerable and the most expensive children that**  
 13 **local authorities place and yet they do not take their**  
 14 **responsibilities to them seriously.**  
 15 Q. Earlier, when we were looking at the paragraph which had  
 16 the number of children, at that stage, it's roughly  
 17 £500 million a year is spent on this group of children,  
 18 this group of 5,000 children?  
 19 A. Yes.  
 20 Q. So we are talking about a significant expenditure of  
 21 public funds?  
 22 A. We are.  
 23 Q. If we can just clarify, when you are talking about  
 24 education placing children, it is the case that not  
 25 every child who goes and lives in a residential school

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1 **parents are very supportive of that placement, it is**  
 2 **difficult for that parent, for all sorts of reasonable**  
 3 **reasons, to maintain an emotional and physical**  
 4 **connection to that child. Quite frankly, if they are**  
 5 **not parenting, then the state should.**  
 6 Q. Can I also identify a bit further down you say:  
 7 "The DfE should replace national minimum standards  
 8 for residential special schools with national quality  
 9 standards."  
 10 Now, this was something which was first raised by  
 11 the Children's Commissioner in a report she identified  
 12 in 2014 called "The views and experiences of children in  
 13 residential special schools". I don't think I need to  
 14 get that up, but that was one of the recommendations she  
 15 made. It is a recommendation you've made. Now, the  
 16 Department for Education have told us that there is no  
 17 intention to replace minimum standards with quality  
 18 standards, and, instead of which, they have worked with  
 19 Ofsted to level up a new version of the national minimum  
 20 standards, and she says that -- Ralph, in her witness  
 21 statement, could we just have a quick look at her  
 22 witness statement; DfE 002073 at paragraph 509, which  
 23 I think is around page 200. What do you think about  
 24 that? Could you go back? It is about 130.  
 25 Could you identify, what is your view about

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1 will be looked after, ie, will be under the care of  
 2 social services in one way or another. Perhaps you'd  
 3 like to explain to us a little bit about that?  
 4 A. It is one of the things I think that I feel most  
 5 passionately about. We have about 1,500 children at the  
 6 moment in 52-week placements. For those children --  
 7 Q. What does "52-week" mean?  
 8 A. Where children are categorised as 52 weeks, the bed that  
 9 they occupy is open to them for every single day of  
 10 the year. There are some children who will have that  
 11 and still go home, but there are a significant group of  
 12 children who never go home. You know, if I say, "How  
 13 many children have you got in placement on Christmas  
 14 Day?", there are a significant number of those children,  
 15 and only a portion of those children -- and it is really  
 16 difficult to find out how many -- are children who are  
 17 looked after by the state. Some authorities have  
 18 a policy that means that children will be looked after,  
 19 and that's absolutely right; other authorities have  
 20 policies which actually refuse to actually recognise  
 21 those children as looked after. Sometimes the  
 22 argument -- we have argued this with government a number  
 23 of sometimes over the years. The government's response  
 24 has been: it is up to parents. I don't think it is, at  
 25 that stage, because the evidence shows that, even where

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1 replacing quality standards with minimum standards?  
 2 A. It was fairly clear that the minimum standards were  
 3 wholly inadequate. What they looked at was the physical  
 4 structure of the buildings and the baseline, they didn't  
 5 look at quality for children or outcomes for children,  
 6 or whatever. We'd been looking at them at the same time  
 7 that the Children's Home Quality Standards were issued.  
 8 Q. They were issued in 2015. The Children's Home Standards  
 9 changed from minimum to quality in 2015. That's right,  
 10 isn't it?  
 11 A. We believe that the Children's Home Quality Standards  
 12 were a much better understanding of children's lives  
 13 than the minimum standards.  
 14 What is interesting is, I made that recommendation  
 15 and heard nothing until an email at 8.00 o'clock this  
 16 morning, which told me that the government were going to  
 17 revise the standards, but were not going to keep them as  
 18 minimum standards. That arrived in my inbox at  
 19 8.00 o'clock this morning. The DfE have given me until  
 20 Friday to comment on it.  
 21 I do not still think we should have minimum  
 22 standards for children. I am very clear that, wherever  
 23 children live, in whatever setting they live in, they  
 24 should have the same quality standards. I do not think  
 25 a minimum standards approach is acceptable.

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1 Q. As it is, if schools look after children for more than  
 2 290 days a year, they have to be registered as  
 3 children's homes in any event, and therefore have to  
 4 meet quality standards. So you're in the position at  
 5 the moment where some of the sector has to meet the  
 6 children's home standards which you -- do you have any  
 7 particular view about their fitness for purpose or --  
 8 **A. I think they're good standards.**  
 9 Q. But some of the others, just by a quirk of how long you  
 10 might be spending boarding, don't have to meet those and  
 11 have to meet the national minimum standards, which are  
 12 different?  
 13 **A. They are, and we visited a school that was on minimum**  
 14 **standards and deliberately was altering its policy to**  
 15 **make sure it didn't have to register for quality home**  
 16 **standards, and that can't be acceptable.**  
 17 Q. Can we go back, please, Ralph, to INQ004307\_043, please,  
 18 and go to the bottom of the page. The next  
 19 recommendation down is:  
 20 "The DfE should clarify who is responsible for the  
 21 safeguarding of children placed within area by another  
 22 local authority."  
 23 Now, my understanding is, it is wherever that child  
 24 is ordinarily resident which is being interpreted to be  
 25 habitually resident. So it is usually where their

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1 **schools were quite isolated. What was happening was,**  
 2 **the children who had been referred to them were getting**  
 3 **more and more complex all the time. So children were**  
 4 **coming in that staff weren't used to working with, so**  
 5 **staff didn't have skill sets, where leadership was**  
 6 **confusing, et cetera --**  
 7 Q. Could you give us an example. When you say "children  
 8 are becoming more complex over time", what do you mean  
 9 by that, in very practical terms?  
 10 **A. So you could be a school that was registered for -- you**  
 11 **had children with autism, but what you're used to**  
 12 **dealing with is children who have verbal language. The**  
 13 **children then referred to you don't have verbal**  
 14 **language, and they also have a range of medical needs,**  
 15 **so they may well have autism and have epilepsy,**  
 16 **et cetera. Therefore, the way you then have to interact**  
 17 **with those children to get the best outcomes changes,**  
 18 **and your workforce isn't used to that and doesn't have**  
 19 **that. It's also quite an isolating position. In the**  
 20 **mainstream system, there is a school improvement**  
 21 **programme. You know, you can go and find people and**  
 22 **say, "Actually, I've got a bit of a problem, how can**  
 23 **I do ..." that sort of improvement programme in special**  
 24 **schools did not feel like it was in place.**  
 25 **Also, I think we went to one school that was on its**

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1 parents live or where they come from that should be  
 2 responsible for safeguarding. Why did you have to  
 3 identify that as a recommendation? What was the sector  
 4 telling you about the problems there were?  
 5 **A. Some of it was where children had moved around or**  
 6 **parents had moved since the placement had happened, or**  
 7 **whatever, and some of it I think the sector are really**  
 8 **struggling to get the home local authorities to take**  
 9 **responsibility. So just -- the ordinary residence stuff**  
 10 **still confuses people.**  
 11 Q. It confuses even the Supreme Court on occasions.  
 12 **A. It confuses people. Actually, because of that level of**  
 13 **confusion, it, in effect, allows a way out of taking**  
 14 **responsibility, particularly when you're asking people**  
 15 **for key decisions or you're asking people for money, and**  
 16 **for me, it was just children getting caught in the**  
 17 **crossfire of actually people arguing about**  
 18 **responsibility, and that really didn't feel good enough.**  
 19 Q. There is then an issue about promoting and supporting  
 20 school improvement in special schools. What do you mean  
 21 by that? What are your concerns about -- is this about  
 22 educational improvement or is this about welfare or is  
 23 it about both?  
 24 **A. I felt that, even though we've representative bodies who**  
 25 **do a lot of good work, a lot of the residential special**

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1 **fourth interim head.**  
 2 Q. At the top of \_044:  
 3 "The DfE should improve the supply of quality school  
 4 leaders to the special schools and colleges sector."  
 5 What do you mean? I think I understand what you  
 6 mean. Perhaps you'd like to explain a little bit more  
 7 about why you reached that recommendation and what's  
 8 considered to be quality?  
 9 **A. I suppose we reached the recommendation because the DfE**  
 10 **supports a number of leadership courses and a number of**  
 11 **leadership and schools courses and whatever. Yet**  
 12 **special schools tend to be the poor relation in them.**  
 13 **So, for us, it was about saying, leadership of these**  
 14 **schools is as important as leadership of academy schools**  
 15 **and mainstream schools, of any schools. Actually, we**  
 16 **wanted the government's leadership programmes to reflect**  
 17 **that and to ensure that, in a sense, being a leader of**  
 18 **a special school was seen as something that people could**  
 19 **aspire to.**  
 20 Q. You then say a bit further down:  
 21 "The quality standards recommended should require  
 22 that schools demonstrate how they are achieving  
 23 ambitious outcomes for children and young people,  
 24 particularly those set out in EHC Plans."  
 25 Just to clarify, Education Health and Care Plans

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1 were introduced under the Children and Families Act  
 2 2014. They are documents where it identifies a child's  
 3 needs, the provision that's necessary to meet that need  
 4 and the placement.  
 5 **A. Yes.**  
 6 Q. That's in respect of both education, health and social  
 7 care. What do you mean? Are you saying, therefore,  
 8 that schools are not currently being ambitious in  
 9 respect of children's outcomes? We are particularly  
 10 interested, really, not in educational outcomes, but in  
 11 welfare outcomes?  
 12 **A. Because the national minimum standards is so poor, they**  
 13 **don't actually refer to outcomes and how things work and**  
 14 **whatever, and they don't make the link with the 2014**  
 15 **legislation. I wanted to make sure that, before**  
 16 **children were placed in schools, they had a really good**  
 17 **education, health and care plan which looked at, "What**  
 18 **are we trying to get out of this placement for this**  
 19 **child to achieve better? Where are we?" And then**  
 20 **schools were measured against that. Whereas what**  
 21 **I wasn't seeing in some schools was any measurement**  
 22 **against what we actually wanted out of the placement.**  
 23 **So if a child is going in with a particular set of**  
 24 **behaviours or a particular challenge in relation to**  
 25 **interacting with other young people, or whatever it is,**

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1 **the next set of outcomes this child needs", because, in**  
 2 **the end, that child needs to go back to the community**  
 3 **they came from and be part of the society they grew up**  
 4 **in.**  
 5 Q. But one of the challenges, as you identified earlier,  
 6 however, is that often those children are placed in  
 7 residential special schools at a time of crisis --  
 8 **A. They are.**  
 9 Q. -- usually at a time of crisis in their parents'  
 10 lives --  
 11 **A. Yes.**  
 12 Q. -- where they are unable to cope for children who might  
 13 be manifesting difficult and challenging behaviours.  
 14 Are you, therefore, saying that what tends to happen is,  
 15 those children arrive and then everybody does the  
 16 planning, rather than the planning taking place before  
 17 those children arrive?  
 18 **A. On a good day, yes, people do the planning once they**  
 19 **have arrived. On a poor day, they don't plan at all.**  
 20 Q. Can we turn now to the Children's Commissioner Report  
 21 which I alluded to earlier which also made the  
 22 recommendation for quality standards. Ralph, would you  
 23 mind getting up INQ004310\_010. It is behind tab 13 of  
 24 your bundle, Dame Christine.  
 25 Now, this makes a series of recommendations at 9.

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1 **or a particular need for independence, what is the**  
 2 **school doing that supports that and how is that laid out**  
 3 **in an education, health and care plan?**  
 4 **I think that's particularly important, because often**  
 5 **the arguments for residential special schools are based**  
 6 **on a 24-hour curriculum.**  
 7 Q. Perhaps you could explain what a 24-hour curriculum is?  
 8 **A. Sorry. There is a particular argument, particularly for**  
 9 **children with autism, that their outcomes are best**  
 10 **improved if they have the same interactions in school,**  
 11 **within their residential unit, at the weekends, and**  
 12 **whatever. So you provide a consistent environment. It**  
 13 **is called the 24-hour curriculum. There was very, very,**  
 14 **very limited evidence within the sector that it actually**  
 15 **existed. But what it does mean is education, health and**  
 16 **care outcomes are all in one place in the residential**  
 17 **special school sector, and so we should be able to use**  
 18 **good Education, Health and Care Plans to promote the**  
 19 **best outcomes. Rather than actually having an**  
 20 **interaction system at the moment that in effect says,**  
 21 **"Right, the child is placed, it's finished, they are out**  
 22 **of our hair", you actually have an interactive system**  
 23 **with the school that then says, "This was the set of**  
 24 **outcomes we asked you to achieve. At our annual review,**  
 25 **tell us how far you are in achieving that and what is**

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1 This was a 2014 report, largely about standards in  
 2 residential special schools, and it was undertaken after  
 3 they had gone and interviewed children who were living  
 4 within those settings. So they said, firstly, the DfE  
 5 should change its requirements so that private  
 6 residential special schools -- if we can just identify,  
 7 the vast majority of residential special schools in this  
 8 sector are private, ie, they are independently run and  
 9 managed. That's right, isn't it?  
 10 **A. Yes.**  
 11 Q. "... to provide a full range of pupil-level data as part  
 12 of the annual school census."  
 13 Why does that make any difference to a child's  
 14 welfare?  
 15 **A. This recommendation is backed by the sector, it's backed**  
 16 **by a review, for some reason, the DfE decides not to**  
 17 **implement. But what it does is, we actually can't tell**  
 18 **you enough about the children in the sector at the**  
 19 **moment, we can't tell you on a pupil level what's**  
 20 **happening to them, why they have been placed, what their**  
 21 **outcomes are. We cannot track them. We require the**  
 22 **state sector to do this. There should be no reason why**  
 23 **we don't provide -- and it gives us an indication of**  
 24 **change and what's going on and outcomes that we can**  
 25 **track. It is a really important part of looking at**

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1 **where this sector is going and what's happening.**  
 2 Q. At the bottom of the page and over the top of the next  
 3 page:  
 4 "The DfE should develop standard 17 of the minimum  
 5 standards for residential special schools ... with  
 6 a greater focus on supporting children to participate in  
 7 important decisions about their lives, and highlighting  
 8 the specific needs of children with very limited or no  
 9 communication skills."  
 10 Can you tell us a little bit about the difficulties  
 11 that there are in this sector in respect of those  
 12 particular group of children who don't have verbal  
 13 language?  
 14 **A. So I've had the pleasure of working with many children.**  
 15 **I've never met a child who didn't communicate, but I've**  
 16 **met lots of children who communicate in ways which are**  
 17 **unique to them. And so there is something at the heart**  
 18 **of this about recognising that children communicate and**  
 19 **that there are ways of children being able to do that**  
 20 **and, at a minimum, you -- so I went into a unit for**  
 21 **profound and multiple learning difficulty. I was quite**  
 22 **distressed at looking at a 5-year-old and what was going**  
 23 **on for that 5-year-old. So that 5-year-old was having**  
 24 **intimate care procedures done to her with strangers in**  
 25 **the room. You know, it's not acceptable.**

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1 "Children are actively encouraged to contribute  
 2 their views ... to raise concerns and make  
 3 complaints ... they are not penalised for taking a view.  
 4 "Active steps are taken to enable all children to  
 5 make their views known ... to maximise their  
 6 opportunities to develop independence."  
 7 Do you think this is a good enough standard against  
 8 which to judge schools? It seems quite general to me?  
 9 **A. I think that's the challenge. I think it is general.**  
 10 **The challenge with this is this bit about "should not**  
 11 **assume that any child is unable to communicate their**  
 12 **views". All children are able to communicate their**  
 13 **views. Therefore, you have to work out what techniques**  
 14 **you are going to use to ensure that those children can**  
 15 **communicate. So it just feels passive, when it should**  
 16 **be active.**  
 17 Q. Do you think that schools in this sector have sufficient  
 18 focus on the development of basic communication skills  
 19 so that choices, needs and wants can be expressed?  
 20 **A. Again, I think it is really mixed. I think good schools**  
 21 **are really good at it. I think poor schools aren't.**  
 22 **What I was surprised, in terms of the visit, was the**  
 23 **sheer difference in the quality of the school, when it**  
 24 **was looking at the same sort of cohort of child. You**  
 25 **know, you go into a school and say, "Well, we can't do**

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1 **There were conversations. And when you said to**  
 2 **staff, "So how do you know when she's happy? How do you**  
 3 **know when she's in pain?" There isn't a child going**  
 4 **that you can't do that with. Those sorts of things were**  
 5 **not coming through. So you try to understand from an**  
 6 **individual child level and then from a level that grew**  
 7 **from that, how is this setting in tune and responsive to**  
 8 **the needs of the children who live here? And there were**  
 9 **some settings that did that really, really well. So**  
 10 **I wouldn't want to paint that otherwise. But, again,**  
 11 **the less verbal a child is, the more challenging it is.**  
 12 **And it's really having skilled staff who understand**  
 13 **communication.**  
 14 **So if you take behaviour, people will say, "Oh,**  
 15 **well, he behaves that way because he's autistic, because**  
 16 **he's got SEMH". Actually, he is behaving that way**  
 17 **because he has a toothache and you're not hearing what**  
 18 **he is saying. So it is that sort of understanding of**  
 19 **the depth of how these children behave and what they do,**  
 20 **and how they use behaviour as a form of communication.**  
 21 Q. Can we have a look at standard 17 as it is currently  
 22 drafted. Chair and panel, it is in your core bundle B,  
 23 volume 2, but I'm going to get it up on the screen. It  
 24 is DFE001510\_018. Standard 17. So this is the current  
 25 standard for residential special schools:

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1 **that with people like that here", and you go into**  
 2 **a school that has children with a similar level of need**  
 3 **and you can see actively what the school was doing in**  
 4 **order to progress it. So it's something for me about**  
 5 **how you level up the system on this issue. It is not**  
 6 **there.**  
 7 Q. For example, the Children's Commissioner has told us  
 8 that they run a project for children who live away from  
 9 home called "Help at Hand" which is largely  
 10 a telephone-based service. Are those sorts of  
 11 telephone-based services any use at all for any of  
 12 the children that you identify in your review?  
 13 **A. I think they have a limited use, don't they, really?**  
 14 **Because so much of these children is context. So we**  
 15 **went to an excellent school for children with social,**  
 16 **emotional and mental health needs. It really was**  
 17 **outstanding. It was an absolute pleasure to visit it.**  
 18 **Those children are quite verbal and quite able but have**  
 19 **very damaged backgrounds. I'm not convinced a telephone**  
 20 **service will give you what you need.**  
 21 **That's not to say that you try whatever you can try,**  
 22 **but I would suggest it's limited.**  
 23 Q. Can we go back now, Ralph, to the Children's  
 24 Commissioner Report at INQ004310\_010-011. Could we go  
 25 to the next page, please, Ralph. There's then a number

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1 of recommendations that the Children's Commissioner  
 2 makes about ensuring that people undertaking section 33  
 3 visits to children's homes are approved or appointed  
 4 through the local authority. I believe they are now  
 5 called Reg 44 visitors. One of the ways forward could  
 6 be, if there is not exact parity of standard setting  
 7 between children's homes and residential special schools  
 8 in this respect, for the national minimum standard to  
 9 adopt the Reg 44 Visitor, which is someone who comes in,  
 10 I think roughly once every half term, to try and develop  
 11 a relationship with children. Do you think that's  
 12 something that children in the sector that you looked at  
 13 would find helpful?

14 **A. I think anything that breaks the isolation of**  
 15 **the schools, that has people in and out of them, that**  
 16 **has people seeing what's going on in the school is**  
 17 **a good thing, in general, because these children have**  
 18 **very isolated lives. I think in terms of people going**  
 19 **in, dependent on the nature of the children in the**  
 20 **school, you would want to make sure that they had an**  
 21 **appropriate level of skills in terms of communication**  
 22 **and support.**

23 Q. So they would need to be a highly specialist cadre of  
 24 people?  
 25 **A. Yes.**

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1 **that's what it is. So for me, it's that -- you know,**  
 2 **even talking to Ofsted at one stage about physically and**  
 3 **geographically isolated process. There is something**  
 4 **about that that every now and again the outside world**  
 5 **needs to go in and shake up and just ask the right**  
 6 **questions and look at where practice is. So the amount**  
 7 **of schools that I went into that said "Our programme is**  
 8 **unique" and then I'd see it replicated in three others**  
 9 **but you'd see difference of it, and you'd say, "Where**  
 10 **are you learning? Where's the learning process?**  
 11 **Where's the people coming in and saying, 'Actually, do**  
 12 **you know, we could do this differently now or we could**  
 13 **look at that', or what are you doing about these**  
 14 **recalcitrant local authorities that are never visiting?"**  
 15 **You know, what are the questions that are being asked?**  
 16 **To me, it is that sort of stuff. If you are not**  
 17 **careful, these schools become like the institutions that**  
 18 **I started working in and they develop a really strong**  
 19 **subculture.**

20 Q. So there is a significant risk at the moment, because of  
 21 geographical and social isolation, that they become sort  
 22 of institutions within themselves?  
 23 **A. Yes.**  
 24 Q. With a level of group think which might be unhelpful?  
 25 **A. Absolutely, yes.**

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1 Q. If we look a bit further down, standard 20 of  
 2 the national minimum standards, that's a requirement  
 3 that six times a year somebody from the governing body  
 4 or the board of trustees or the proprietor goes in and  
 5 visits the school and does a report about what's going  
 6 on. In effect, what the Children's Commissioner is  
 7 identifying is that that should be an independent person  
 8 who should do that and that should be somebody by the  
 9 local authority. Is that something which you support?

10 **A. Yes, definitely. I just think that independent voice in**  
 11 **the schools -- and often to praise practice as much as**  
 12 **to look at poor practice. But it needs that -- the**  
 13 **sector is too closed. It needs people to come in.**

14 Q. What do you mean the sector is too closed? You have  
 15 mentioned the words "closed" and "isolated" a number of  
 16 times. I'm envisaging institutions where, by the nature  
 17 of the children you are talking about, there will be  
 18 quite a number of staff working there. What do you mean  
 19 by "closed" and "isolated"?

20 **A. A lot of the schools are in physically isolated places,**  
 21 **and they develop a culture, you know, they develop**  
 22 **a culture. So if you go into some of the more isolated**  
 23 **schools, you know, all of the workforce comes from the**  
 24 **local town. It is a small, tight culture. Actually,**  
 25 **that doesn't necessarily mean that's bad or good, but**

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1 Q. Next down, at (c):  
 2 "A requirement that all serious incidents should be  
 3 formally notified to the inspectorate is re-introduced  
 4 to the national minimum standards for residential  
 5 special schools."  
 6 Let me explain, for those individuals who might be  
 7 listening along, until 2011, there was a duty upon all  
 8 schools to report the death of children, any allegation  
 9 of abuse, an outbreak of a contagious illness or any  
 10 serious physical injury to them to Ofsted, and I think  
 11 to the Department for Education as well, with whom all  
 12 these schools would have to be registered.  
 13 That was abolished in 2011. Ofsted themselves have  
 14 said that they would like this to be re-introduced. Do  
 15 you have any particular views upon its usefulness?

16 **A. One of the things that struck me, as our report started,**  
 17 **we went to talk to various people and, at that stage,**  
 18 **there was an active enquiry into a school, and what was**  
 19 **interesting was the way that enquiry had manifested**  
 20 **itself. So Ofsted found out because it had been**  
 21 **reported in the local paper. There was a challenge**  
 22 **between what the education and funding agency knew, as**  
 23 **the funders, and what was going on there, and what**  
 24 **Ofsted knew. It was a messy approach to that particular**  
 25 **thing. That had happened on two enquiries running.**

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<p>1 <b>What we were saying to DfE, the education and funding</b>                  2 <b>agency and whatever is what was the learning from this.</b>                  3 <b>The learning was there were not the clear routes in</b>                  4 <b>which notified when there were challenges in schools.</b>                  5 <b>So I think the Children's Commissioner is completely</b>                  6 <b>right in asking for this.</b>                  7 Q. There is then an issue about behaviour management and                  8 physical intervention. This is something which you                  9 mention in your report as well?                  10 <b>A. Yes.</b>                  11 Q. Obviously, this inquiry's focus is child sexual abuse,                  12 so, as far as physical restraint and standards for                  13 behaviour management and physical intervention is                  14 concerned, what are the standards like in the sector                  15 from your review of them and what needs to be improved?                  16 <b>A. I think, again, it comes down to -- the standards are</b>                  17 <b>messy. It comes down to individual understanding of</b>                  18 <b>what you're trying to do and where you are, and, again,</b>                  19 <b>it goes back to the different groups of children, in</b>                  20 <b>terms of what needs to happen.</b>                  21 <b>So I would suggest that children who have profound</b>                  22 <b>and multiple learning difficulties and who have intimate</b>                  23 <b>care carried out by a range of people who don't know</b>                  24 <b>what they're doing counts as sexual abuse, so</b>                  25 <b>understanding where those standards are. I think, in</b></p> <p style="text-align: center;">Page 33</p>	<p>1 <b>terms of behaviour, it really is about staff who are</b>                  2 <b>skilled enough to understand why the behaviour is</b>                  3 <b>arising and, therefore, how they deal with it, and it is</b>                  4 <b>also about the quality of people's ability to deal with</b>                  5 <b>sex and sex education.</b>                  6 <b>There are a range of things on a messy set of</b>                  7 <b>standards. We just have had some new guidance, which we</b>                  8 <b>have been waiting for for a long time, issued on</b>                  9 <b>restrictive physical intervention, and we are just</b>                  10 <b>trying to understand at the moment how that fits and</b>                  11 <b>what that does and what its consequences are. But,</b>                  12 <b>again, it's that clarity of understanding what you're</b>                  13 <b>doing and why you're doing it.</b>                  14 Q. Can I also ask, one of the other issues which is raised                  15 in some previous guidance was the role of the Local                  16 Children's Safeguarding Board in providing some sort of                  17 strategic direction for safeguarding for all children,                  18 which obviously included disabled children as well.                  19 Now, Ralph, would you mind getting up DFE002022_015                  20 and _014. This was issued in 2009, this guidance. It                  21 was specifically called "Safeguarding Disabled Children:                  22 Practice Guidance". It seems to be aimed largely at                  23 local children's safeguarding board and social services                  24 professionals. One of the things that they identified                  25 back in that time was that there could be a safeguarding</p> <p style="text-align: center;">Page 34</p>
<p>1 disabled children's subcommittee with a designated chair                  2 who should have some strategic direction and each                  3 partner agency should be a member of that and there                  4 should be a multi-agency framework. We have got                  5 multi-agency forums, regular practice events, promoting                  6 consultation with parents, et cetera, et cetera. Has                  7 any of that happened?                  8 <b>A. So we were part of writing this guidance, and it had</b>                  9 <b>come out of a joint chief inspectors report which,</b>                  10 <b>again -- I can't remember what it is called now, sorry,</b>                  11 <b>but looked at --</b>                  12 Q. I think it was the one in 2008. There were joint                  13 reports in 2005 and 2008 which looked at various issues,                  14 including those in respect of disabled children.                  15 <b>A. So I worked with the joint inspectors in 2008, and,</b>                  16 <b>again, it identified that safeguarding for disabled</b>                  17 <b>children was a long way down on people's lists and</b>                  18 <b>wasn't there, and whatever, and the guidance was written</b>                  19 <b>after that, partly because people were saying to us, "We</b>                  20 <b>don't know how to do this", you know, "I'm a social</b>                  21 <b>worker by training. I get experienced social workers</b>                  22 <b>ringing me up saying, "We have got a disabled child,</b>                  23 <b>what do we do? You'd say, "You do the things you do for</b>                  24 <b>everyone else, really". This is a non-issue. The</b>                  25 <b>guidance was part of the process of bringing that out.</b></p> <p style="text-align: center;">Page 35</p>	<p>1 <b>It was because, also, at the time, the LSCBs had issued</b>                  2 <b>the top ten things that matters to LSCBs and disabled</b>                  3 <b>children were nowhere near them. Again, there were</b>                  4 <b>small parts of the country where this practice was</b>                  5 <b>happening. We were trying to generalise this practice.</b>                  6 <b>It has not been generalised.</b>                  7 Q. In particular, has there been the provision of                  8 specialist training for safeguarding disabled children                  9 in particular, which was one of the recommendations at                  10 paragraph 2.12 of this guidance. Ralph, that's                  11 DFE002022_019.                  12 <b>A. So there is sporadic training available. There is</b>                  13 <b>training available if you go and look for it. There</b>                  14 <b>used to be some fairly specific training coming out.</b>                  15 <b>Triangle, for example, which is a specialist agency.</b>                  16 <b>There would be bits and pieces around. But again, what</b>                  17 <b>you have not seen is a consistent approach to what is</b>                  18 <b>different about safeguarding disabled children, and of</b>                  19 <b>course this guidance is now ten years old, so it doesn't</b>                  20 <b>take into account the changes that were made in the</b>                  21 <b>Children and Families Act 2014 and how we look at things</b>                  22 <b>and what we do. I'm not sure now, if you're a social</b>                  23 <b>worker, you would be able to find it.</b>                  24 Q. Do you think there needs to be some up-to-date training                  25 both for social services and for education, about making</p> <p style="text-align: center;">Page 36</p>

<p>1 sure that disabled children are at the centre of 2 decision making when it comes to child protection? 3 <b>A. I think so. It goes back to what is different and what 4 is the same when you're safeguarding disabled children, 5 and guidance is really about giving people confidence to 6 do the same. You know, there's a tiny bit of disabled 7 children's lives that is different because they have an 8 impairment, but good safeguarding practice is good 9 safeguarding practice, but it is partly about giving 10 people the confidence to do it.</b> 11 Q. One of the other things that the Children's 12 Commissioner Report identified was that they found, when 13 they went in to speak to children who lived in these 14 settings, that there was a number of barriers for them 15 to be able to make basic choices about their lives and 16 that adults needed to work a lot harder to understand 17 their experiences. 18 Now, we have obtained some witness evidence from 19 Triangle, whom you have just referenced, who are 20 a specialist organisation who work with children with 21 significant communication impairments. They identify -- 22 Ralph, would you mind getting up TRI000011_003-005. 23 Would you mind -- can you get up all three pages, Ralph, 24 or is that a step too far technologically? What they 25 basically say, paragraph 6 here, they reference a recent</p> <p style="text-align: center;">Page 37</p>	<p>1 study which said that 80 per cent of young adults say 2 that they had tried to tell someone about the abuse but 3 not being noticed, asked or heard was a consistent 4 thread throughout the findings. They then identify that 5 for those children who are disabled, not being listened 6 to or heard is even more of a problem and an issue. 7 They, in particular, identify that there needs to be 8 much better training about responding to concerns and 9 behaviours for disabled children than there is at 10 present throughout the sector. Is that something you 11 agree with? 12 <b>A. Yeah, the challenge with disabled children is that their 13 label goes before them, and so people assume that 14 because they have got that label or whatever, you know, 15 this must be trauma or this must be autism or this is 16 what children are cerebral palsy are like. It is where 17 the myths of oversexualisation come from, for example, 18 because children like this don't have it. You know, one 19 of my first jobs as a social worker was working with 20 a family who wanted compulsory sterilisation for their 21 14-year-old with Down's Syndrome because that would 22 protect them, because other people would always attack 23 them. You know, there are some really strong myths 24 about how the system works. I think, again, disabled 25 children only -- there are some really good forums where</b></p> <p style="text-align: center;">Page 38</p>
<p>1 <b>disabled children have a voice, but they are still 2 limited and they are not accepted as a legitimate way of 3 working.</b> 4 Q. One of the particular issues that they advocate for, 5 Triangle, at paragraph 18 of their witness statement, 6 please, Ralph, _006, over to the top of _007, is the 7 need for a specialist advocacy service, in effect, for 8 young people. If you could go right at the bottom, 9 Ralph of, paragraph 18, and then the top of 19. They 10 say that there aren't very many independent advocates, 11 so even when children's voices are sought to be heard, 12 they tend to be individuals who are workers at the 13 school rather than people who are truly independent. 14 Then at paragraph 19, they say that in institutional 15 settings staff act as gatekeepers? 16 <b>A. Yes.</b> 17 Q. And, therefore, children aren't able to be seen by 18 independent advocates. Do you think that the whole area 19 of independent advocacy for children, particularly in 20 the residential special school sector, is something 21 which needs to be looked at again? 22 <b>A. I think it's been looked at again, and again, and again 23 in the last 20 years. I think the honest answer is that 24 people won't resource it effectively because they don't 25 see it as important enough.</b></p> <p style="text-align: center;">Page 39</p>	<p>1 Q. Why is it important? 2 <b>A. Because these children have the right to be heard, in 3 the same way that any other child does, and I think, you 4 know, it doesn't matter what scandal you look at, you 5 know, right from North Staffs or whatever. Once you 6 start to deny people basic humanity, they start not to 7 matter. I think some of the system, at its worst, 8 denies a basic humanity for these children. Sometimes 9 you have to say to people, when there's an argument 10 going on about money or an argument going on, "They're 11 13, they're 12, they're 9, they're kids". There's 12 something about that particular -- you know, I read 13 social work reports and they have two and a half pages 14 of every label this child has ever had, and I say, "But 15 where's the child in this?" Sometimes the complexity of 16 the system means we lose the child. The issue about 17 advocacy is about finding the child again.</b> 18 Q. Can we now turn to dealing with sexually harmful 19 behaviour between children with autism and learning 20 disabilities. We know from Professor Simon Hackett, who 21 is coming to give evidence to us tomorrow, that there is 22 a higher proportion of young people with learning 23 disabilities who are referred to criminal justice and 24 other services because of their sexualised behaviour, 25 and he identifies that the reasons for that are complex,</p> <p style="text-align: center;">Page 40</p>

1 and we will deal with that with him tomorrow.  
 2 You identify that there is often a degree of  
 3 infantilisation with children and young people with  
 4 learning disabilities which can then cause problems in  
 5 terms of enabling their appropriate sexual development.  
 6 Can you tell us a little bit about that? I understand  
 7 the National Council for Disabled Children runs  
 8 something called the sex education forum.  
 9 **A. We do --**  
 10 **Q. Could you tell us about that, please?**  
 11 **A. So the National Children's Bureau, which the Council for**  
 12 **Disabled Children is part of, runs a sex education forum**  
 13 **and I have the joy of managing it, and one of the things**  
 14 **we have been looking at, as statutory sex education gets**  
 15 **rolled out, is actually where children with SEND fit.**  
 16 **Currently, there is not a focus on that group of**  
 17 **children, who do need something specific and also need**  
 18 **something the same. Let me give you an example.**  
 19 **We had a child -- a local authority talking to us**  
 20 **about a child that was 13, sexualised because of their**  
 21 **impairment, they said. When you went back, this was**  
 22 **a child with Down's Syndrome who had not been taught the**  
 23 **basic rules. So when he'd gone to a secondary school,**  
 24 **he was little, like lots of children with Down's**  
 25 **Syndrome, the idea of looking after him at lunch time**

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1 there to be specialist sex education for children with  
 2 disabilities because, let's remember, there are 4,500  
 3 children who live in residential special schools, there  
 4 are 120,000 children who are in day special schools and  
 5 there are over 1 million children with special  
 6 educational needs within mainstream settings. Do you  
 7 know or have you been asked to produce any specialist  
 8 resources or training for the rollout of this which is  
 9 taking place in September next year?  
 10 **A. No. What we did last year, which I think is referred to**  
 11 **in a couple of statements, is we worked in a joint piece**  
 12 **of work between the sex education forum and the Council**  
 13 **for Disabled Children to put on a national conference**  
 14 **about effective RSE for disabled children and that's**  
 15 **because we couldn't see anything else going on, really.**  
 16 **What we did was we brought together a number of**  
 17 **fantastic programmes of work, to be honest, which**  
 18 **actually show how good sex and relationships education**  
 19 **is for disabled children, to promote the fact that**  
 20 **schools needed to be engaged and needed to be involved,**  
 21 **et cetera. But we are worried that, in the current**  
 22 **government programme, there is no specific reference or**  
 23 **inclusion of SEND in as far as we can see.**  
 24 **Q. In particular, there is, as I understand from the**  
 25 **statutory guidance, it doesn't say there are these**

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1 **was for him to sit on the lap of the sixth formers who**  
 2 **fed him his dinner, et cetera. When he got a bit bigger**  
 3 **and he was slightly less cute and he went around sitting**  
 4 **on the laps of reluctant sixth formers, this was a child**  
 5 **who clearly had sexualised behaviour. He did not. The**  
 6 **issue has always been, for this group of children, how**  
 7 **do you teach them from the outset the same rules? A lot**  
 8 **of these kids are not streetwise. They don't get the**  
 9 **rules. So you have to explain the rules. Be really,**  
 10 **really clear about the rules. If you think about past**  
 11 **practice with disabled children, lots and lots of stuff**  
 12 **about hugging, give them a hug, do this. Don't hug them**  
 13 **when they're 19. What are you doing? You're not their**  
 14 **parent. You know, there is a lot of really poor**  
 15 **baseline practice in understanding how to teach the**  
 16 **basic rules of engagement for children, and people**  
 17 **somehow or other believe that for children with**  
 18 **disabilities that doesn't matter, when, actually, it is**  
 19 **more important than ever for that group of children that**  
 20 **it matters, because, otherwise, they then get labelled**  
 21 **as oversexualised when often they don't know the basic**  
 22 **rules.**  
 23 **Q. I have looked at the government's sex and relationship**  
 24 **education and statutory guidance which they issued, and**  
 25 **there are three paragraphs which identify the need for**

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1 minimum standards. It says what should be taught by the  
 2 end of various key stages but doesn't impose a set of  
 3 standards or requirements that says, in effect, to every  
 4 school, "You must go and do what you feel is best for  
 5 your school and there is a series of resources".  
 6 Do you think, in respect of children with  
 7 disabilities, there needs to be a little bit more  
 8 direction rather than the choice, which is currently set  
 9 out within the guidance as it is envisaged?  
 10 **A. If I was talking to you as a director working with a sex**  
 11 **education forum, I would be really clear with you that**  
 12 **the government's lack of clarity in this area is**  
 13 **a massive challenge across the piece and is one of**  
 14 **the things that's fuelling the protests that we can see**  
 15 **at the moment. So there is a lack of clarity across the**  
 16 **piece in relation to primary school education in**  
 17 **particular; for example, the teaching on LGBT issues,**  
 18 **et cetera. So there is a framing of this where a lack**  
 19 **of clarity is a challenge and that lack of clarity then**  
 20 **impacts on every part of the system.**  
 21 **Q. So if you were in charge, would you ensure that there**  
 22 **were training resources and materials which were**  
 23 **expressly set out by the government or by organisations**  
 24 **on their behalf to identify specific training needs,**  
 25 **training resource needs, for children with disabilities**

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<p>1 and special educational needs?</p> <p>2 <b>A. I would. I like the thought of being in charge, but not</b></p> <p>3 <b>for long.</b></p> <p>4 Q. As far as other issues are concerned, there is current</p> <p>5 statutory guidance in Keeping Children Safe in</p> <p>6 Education. Now, that deals in brief -- again, there are</p> <p>7 two or three paragraphs which identify the particular</p> <p>8 needs of children with disabilities. You've already</p> <p>9 identified that the last set of guidance was issued in</p> <p>10 2009. Do you think there should be a Keeping Children</p> <p>11 Safe in Education, the residential special school</p> <p>12 version, or the children with disabilities version, or</p> <p>13 do you just think there needs to be more focus in the</p> <p>14 guidance that there currently is on the needs of</p> <p>15 children with SEN and disabilities?</p> <p>16 <b>A. I think there is always a danger, if you start issuing</b></p> <p>17 <b>separate guidance for children in different settings and</b></p> <p>18 <b>with different needs, that almost you deprioritise it.</b></p> <p>19 <b>So I would far rather that the core guidance the</b></p> <p>20 <b>government issues adequately addresses the needs of</b></p> <p>21 <b>children with SEN and disability than almost produce</b></p> <p>22 <b>a guidance that does that. The only reason I'd like the</b></p> <p>23 <b>practice guidance for disabled children updated is</b></p> <p>24 <b>because that goes beyond the guidance and doesn't just</b></p> <p>25 <b>say, "This is the guidance". It then says to people,</b></p> <p style="text-align: center;">Page 45</p>	<p>1 <b>"And here are the tools and the ways of implementing</b></p> <p>2 <b>it".</b></p> <p>3 Q. Do you have any views about inspection within the</p> <p>4 context of residential special schools and as to the</p> <p>5 adequacy or otherwise of it of identifying difficulties</p> <p>6 or problems with safeguarding or child protection?</p> <p>7 <b>A. Yes. Two things. When the report was finished, I went</b></p> <p>8 <b>to see Ofsted and they asked me to join them on an</b></p> <p>9 <b>inspection, which I did, and I wanted to see the</b></p> <p>10 <b>inspection process in place. The inspectors that</b></p> <p>11 <b>I worked with were really good. They were really clear.</b></p> <p>12 <b>But they were hidebound by their own standards. So they</b></p> <p>13 <b>were not able to inspect context and outcomes.</b></p> <p>14 Q. What do you mean by inspecting context and outcomes?</p> <p>15 <b>A. So we went to see a school which was very good, but, for</b></p> <p>16 <b>example, where an 8-year-old child -- it was under</b></p> <p>17 <b>discussion that an 8-year-old child would be admitted</b></p> <p>18 <b>into the 52-week unit. I was saying, "We can't be</b></p> <p>19 <b>admitting 8-year-olds. What are you going to do about</b></p> <p>20 <b>it?", and they were saying, "Those are not the questions</b></p> <p>21 <b>we can ask in the standards. The standards are about</b></p> <p>22 <b>what is happening now, not what may happen in the next</b></p> <p>23 <b>few months or whatever". So there's something about --</b></p> <p>24 <b>in the same way that, when you inspect on destination,</b></p> <p>25 <b>so where do these children leave to, you inspect a piece</b></p> <p style="text-align: center;">Page 46</p>
<p>1 of paper that said child X was there, child Y was there.</p> <p>2 I think one of the things you also noticed about that</p> <p>3 was the school produced the role and the school said</p> <p>4 that these six children are children in need, and</p> <p>5 I said, "Well, what does that mean? These are all</p> <p>6 children in need, by definition of section 17 of</p> <p>7 the Children Act 1989", and they were saying, "No, no,</p> <p>8 they're just children who have social workers". So</p> <p>9 there was some strange stuff in terms of how context</p> <p>10 worked.</p> <p>11 The other thing that I suppose I'd like to say is,</p> <p>12 when you're dealing with the world of social, emotional</p> <p>13 and mental health and autism, what interests me is,</p> <p>14 there is no health inspection. So the only reason the</p> <p>15 CQC get involved in this part of the world is when they</p> <p>16 are inspecting schools that have what are called</p> <p>17 regulated health activities. So, in effect, tubes and</p> <p>18 medical things. Even that's not consistent.</p> <p>19 But one of the things that really strikes me that</p> <p>20 has changed is that the level of children with mental</p> <p>21 health needs in the system is very, very high, and yet</p> <p>22 we have no mental health clinical expertise as part of</p> <p>23 the inspection process.</p> <p>24 Q. So it may well be, for example, that children will go to</p> <p>25 residential special schools after having been in</p> <p style="text-align: center;">Page 47</p>	<p>1 specialist inpatient units, for example, the assessment</p> <p>2 and treatment units?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. And they may well be having regular psychiatric and</p> <p>5 psychological oversight onsite at the school, but yet,</p> <p>6 there is no inspection of that aspect by clinicians, so</p> <p>7 to speak?</p> <p>8 <b>A. Yes, or from health-based inspectors. So, for example,</b></p> <p>9 <b>a lot of the schools were struggling to deal with some</b></p> <p>10 <b>of the behaviour that they were witnessing, so some of</b></p> <p>11 <b>the undercurrents of challenge in terms of sexuality.</b></p> <p>12 <b>But were not -- the Ofsted inspectors coming on</b></p> <p>13 <b>a certain way. For me, it felt like there was an odd</b></p> <p>14 <b>gap in how we're inspecting children's needs.</b></p> <p>15 Q. Can I ask about how do you develop a positive</p> <p>16 safeguarding culture for these groups of children? You</p> <p>17 have already identified a number of them will be in</p> <p>18 these settings because they present what some people</p> <p>19 call challenging behaviours, other people call them</p> <p>20 difficult behaviours, but they will be acting out. So</p> <p>21 they will be trying to hurt themselves, trying to hurt</p> <p>22 other people, whether that's physically or sexually.</p> <p>23 What do you do to try and create a safeguarding culture</p> <p>24 when you're dealing with a group of individuals</p> <p>25 altogether who are demonstrating those behaviours?</p> <p style="text-align: center;">Page 48</p>

1 **A. So I think the way of illustrating that was by using**  
 2 **a school that was excellent at it. We went to see**  
 3 **a school for children with social, emotional and mental**  
 4 **health needs, and we were taken around the school by an**  
 5 **11-year-old who had been admitted at 9, and on his**  
 6 **referral papers this was a child who had been multiply**  
 7 **excluded, he was violent and out of control and the**  
 8 **local authority had suggested that the school admit him**  
 9 **with a spit guard, so a mask over his face to stop him**  
 10 **spitting at other people. We met a child who, with**  
 11 **staff in distance, told us his story, of a child who had**  
 12 **been repeatedly rejected, who had come from a violent**  
 13 **background, who'd been looking at a life that was very**  
 14 **challenging.**  
 15 **In that school, he'd come into that school, but that**  
 16 **school has really, really good leadership, it had**  
 17 **quality staff, it had a really good training programme,**  
 18 **it had a warm, nurturing approach, it had a really,**  
 19 **really clear system of both dealing with poor behaviour**  
 20 **but rewarding good behaviour, and staff and children**  
 21 **across the school were really clear how that happened**  
 22 **and when that happened and were made safe. And so what**  
 23 **you ended up saying to that group of children was, "Why**  
 24 **does this school work for you?", and they said, "Because**  
 25 **the staff give a damn". It was almost as simple as**

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1 **A. Yes.**  
 2 **Q. That isn't the case if you are the head of care or the**  
 3 **head of boarding in a residential special school. Is**  
 4 **that something that you think should be introduced as**  
 5 **a similar level of minimum qualification?**  
 6 **A. Yes, because it goes back to children in whatever**  
 7 **settings should have the same level of quality rather**  
 8 **than the setting title defines the quality. It is the**  
 9 **children's needs that should define the quality.**  
 10 **Q. Can I ask, as well as workforce development and staff**  
 11 **development, how about governance? Obviously leadership**  
 12 **from the top in these cases will be the governors or**  
 13 **trustees of schools. What's your view about the**  
 14 **abilities of governors and trustees in these schools to**  
 15 **really understand what's going on in them in respect of**  
 16 **safeguarding?**  
 17 **A. I think it's like everything else. It is so variable,**  
 18 **so good schools -- schools that work with the**  
 19 **representative associations -- I think one of the things**  
 20 **that worried us, which was not within the scope of**  
 21 **the review, was the change in ownership of schools. So**  
 22 **a lot of schools were schools that had one or two**  
 23 **schools, they were well run, they were whatever. In the**  
 24 **course of the review, there were a number of buyouts of**  
 25 **schools, there were a number of sort of more distant**

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1 **that.**  
 2 **Q. Going on from that, you've identified first the need for**  
 3 **good leadership, but also the need for good staff who**  
 4 **understand the children and are willing to work with**  
 5 **them. What is your view about the quality of staff**  
 6 **currently educated in looking after children within**  
 7 **residential special schools and is there any further**  
 8 **training/qualifications that they need in order to be**  
 9 **able to do their jobs properly?**  
 10 **A. As I say, the schools that we saw the most challenge**  
 11 **were schools which had been opened for a group of**  
 12 **children, children who, for example, had a single**  
 13 **sensory impairment but were now having multiple**  
 14 **impairments, children who had a level of autism that had**  
 15 **increased. So they were schools that were set up for**  
 16 **a group of children and were staffed for a group of**  
 17 **children and those children's needs had changed and they**  
 18 **were struggling to meet those needs. I think the**  
 19 **workforce in residential special schools is undervalued,**  
 20 **I think it's underpaid, it's undersupported and it's**  
 21 **undertrained.**  
 22 **Q. In particular, one of the things that the inquiry has**  
 23 **noticed is that children's homes -- a manager of**  
 24 **a children's home has to have a specific level of**  
 25 **qualification now and has to be registered?**

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1 **management of schools coming in. Or there were schools**  
 2 **that were -- there were some big groups of owners of**  
 3 **schools that were coming in. I think, when you get that**  
 4 **sort of very different commercial feel in the sector,**  
 5 **which is where the sector was going, it's hard to**  
 6 **balance the commercial needs and the quality.**  
 7 **Q. Because a number of these schools are run by large**  
 8 **chains who are funded by private equity or other sort of**  
 9 **commercial organisations?**  
 10 **A. Yes.**  
 11 **Q. Can I ask now, which follows on from workforce**  
 12 **development and governance, which is about mandatory**  
 13 **reporting in the context of residential schools. Do you**  
 14 **think there should be such? Do you think there should**  
 15 **be an obligation on staff to report suspicions,**  
 16 **allegations or disclosure of abuse within those**  
 17 **settings? Do you think that should happen?**  
 18 **A. The only reason I'm looking like I'm hesitating is that**  
 19 **there is also something to me -- and it might be outside**  
 20 **the scope of this -- about the local authority's**  
 21 **responsibilities for the children that they place in the**  
 22 **schools, where those responsibilities are not being**  
 23 **carried out. So, for me, it is a balancing act between**  
 24 **what we are asking staff in schools to do, to report**  
 25 **abuse, and of course that's what we would want. It**

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1 **depends where that mandatory reporting goes and what**  
 2 **actions come as a result of it. We can have wonderful**  
 3 **reporting systems that don't lead to change. So it is**  
 4 **something about getting that balance right, and then**  
 5 **also getting the placing authorities to take also**  
 6 **a responsibility for understanding what is happening to**  
 7 **their children in schools and being part of that.**  
 8 Q. But would you support compulsory reporting by staff?  
 9 **A. I probably would, in principle.**  
 10 Q. How about -- one of the other suggestions that's been  
 11 made is that, even if compulsory reporting isn't  
 12 introduced in this setting, there should be a specific  
 13 criminal offence of concealing abuse, so deliberately  
 14 hiding abuse that's going on. Is that something which  
 15 you would think is a good idea or not?  
 16 **A. I think I'd worry about it. I think it's a real**  
 17 **challenge, given where we are and what's going on. It**  
 18 **might be something that lawyers like. I'm not sure it**  
 19 **would work for the system.**  
 20 Q. Can I just identify, out of all the recommendations you  
 21 made in 2017 in your review, as I understand, none of  
 22 them have been fully implemented as yet; is that right?  
 23 **A. The SEND leadership board is probably just about**  
 24 **implemented, but rather taken over by events. There are**  
 25 **a number of the other recommendations which are not yet**

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1 **of a very similar level of need, all of those children**  
 2 **were involved in sheltered -- supported employment,**  
 3 **supported volunteering, active parts of their community**  
 4 **and expected to go on to community life. So very**  
 5 **different standards of expectation.**  
 6 **I think, again, when you place children a long way**  
 7 **from home, it is really, really difficult to integrate.**  
 8 **I suppose my worry is that, for some -- again, for some**  
 9 **local authorities, the first time they know that child**  
 10 **is going to leave that school is a phone call from the**  
 11 **finance office, and the worry in the sector for me, as**  
 12 **somebody who started off working in the institutions, is**  
 13 **the phone call that says, "Oh, by the way, this child is**  
 14 **19 and they will be leaving in the summer term, but we**  
 15 **do happen to have opened an adult unit on site and we**  
 16 **have a place for them and we can take them". So we now**  
 17 **have a number of schools that have more adult placements**  
 18 **than children's placements and that, to me, is the**  
 19 **institutionalisation of young people against their**  
 20 **wishes.**  
 21 THE CHAIR: Just to complete that aspect of it, are the  
 22 children given specific support over issues of sexuality  
 23 before they leave?  
 24 **A. Again, I'm sure that the picture is mixed.**  
 25 THE CHAIR: Thank you very much.

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1 **implemented.**  
 2 Q. Out of all the discussion that we have just had, what do  
 3 you think is the biggest change that needs to take place  
 4 in respect of these schools, in order to make them safer  
 5 for these children?  
 6 **A. I think it's something about valuing and recognising the**  
 7 **sector and actually designing a set of standards and**  
 8 **supports which actually recognise the value of**  
 9 **the children within them.**  
 10 MS SCOLDING: Thank you very much, Dame Christine. I have  
 11 no further questions for you. The chair and panel may  
 12 have questions for you.  
 13 Questions from THE PANEL  
 14 THE CHAIR: Just one question, to complete your very vivid  
 15 description of the experiences of children. What  
 16 happens to them at the point that they leave and how  
 17 well prepared are they for whatever their future holds?  
 18 **A. It is a really good question, and it is really, really**  
 19 **variable. So if you take one -- if you take profound**  
 20 **and multiple learning difficulty, we went to two schools**  
 21 **that work with children with profound and multiple**  
 22 **learning difficulty. In one school, I was slightly**  
 23 **outraged that, at 19, they were trying to keep kids**  
 24 **until 25 and then they were going to admit them to**  
 25 **a nursing home. In the other school, which had children**

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1 MS SCOLDING: Chair, I don't know whether this would be an  
 2 appropriate moment to have our morning break.  
 3 THE CHAIR: Thank you. We will return at 11.30 am.  
 4 (11.12 am)  
 5 (A short break)  
 6 (11.30 am)  
 7 THE CHAIR: Ms Scolding?  
 8 MS SCOLDING: Thank you. We now are going to hear from  
 9 Ms Povey of the National Autistic Society and  
 10 Mr Robinson of Mencap. It is bundle G, tab A/2 and 3 of  
 11 your bundle. Mrs Povey behind 2, Mr Robinson behind 3.  
 12 MS CAROL POVEY (affirmed)  
 13 MR JAMES ROBINSON (affirmed)  
 14 Examination by MS SCOLDING  
 15 MS SCOLDING: Good morning to you both, and thank you for  
 16 coming. I have a few introductory remarks before  
 17 I start to ask you some questions. Firstly, this isn't  
 18 a test of memory. Please feel free to refer to your  
 19 witness statement or to any other notes you may have  
 20 prepared. Secondly, we can stop at any time and for any  
 21 reason. Please just let me know. Thirdly, you both  
 22 have paper bundles in front of you with your witness  
 23 statement and some other documents. But there is also  
 24 a screen next to you, Ms Povey, where, if I am asking  
 25 you to look at a particular document, I will get that up

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1 on the screen. Lastly, we are undertaking sort of dual  
 2 questioning. It is sometimes unfortunately known by  
 3 lawyers as a "hot tub", although there is nothing hot or  
 4 tub-like about it. I am going to direct my questions at  
 5 the person I think is most likely to be able to answer,  
 6 but if either of one of you thinks you are better placed  
 7 or wants to add anything in addition, please feel free  
 8 to do so.  
 9 Ms Povey, could you go to your bundle at tab A/1.  
 10 Your witness statement should be behind it.  
 11 MS POVEY: Yes.  
 12 MS SCOLDING: Can I just confirm, did you sign this witness  
 13 statement?  
 14 MS POVEY: Yes, I did.  
 15 MS SCOLDING: Is it true, to the best of your knowledge and  
 16 belief?  
 17 MS POVEY: It is.  
 18 MS SCOLDING: Mr Robinson, could I ask you to go behind  
 19 tab A/1 of your bundle. Again, can I ask you to confirm  
 20 that you did sign this witness statement?  
 21 MR ROBINSON: Yes, I did.  
 22 MS SCOLDING: And that it is true, to the best of your  
 23 knowledge and belief?  
 24 MR ROBINSON: It is.  
 25 MS SCOLDING: Ms Povey, your title is the director of

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1 MS POVEY: The total who should have a diagnosis.  
 2 MS SCOLDING: At the moment, as I understand it,  
 3 significantly more boys than girls have such  
 4 a diagnosis. Does that represent the reality of those  
 5 who may be affected by autism, in that it is  
 6 predominantly a male special educational need rather  
 7 than a female special educational need?  
 8 MS POVEY: It has previously been thought to be something  
 9 that affects boys more than girls. Our understanding of  
 10 autism is changing now, and we believe that it is more  
 11 likely to be because girls and women present  
 12 differently, and there are fewer diagnosticians, fewer  
 13 clinicians, who are able to understand the presentation  
 14 of autism in girls and women. Therefore, they either  
 15 don't get a diagnosis or they get it later in life and  
 16 often are misdiagnosed before they get the diagnosis.  
 17 MS SCOLDING: The Department for Education have told us that  
 18 nearly 30 per cent of those with Education and  
 19 Healthcare Plans, which we talked through with  
 20 Dame Christine, have autism as what's called their  
 21 primary need. It means they might have other things on  
 22 their EHC Plan but autism -- so it is by far and away  
 23 the largest category of children who have EHC Plans. Is  
 24 that right?  
 25 MS POVEY: Yes.

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1 the Centre for Autism at the National Autistic Society,  
 2 and you have been in that post since 2010. Mr Robinson,  
 3 I understand you are the policy and strategic lead for  
 4 children and young people at the Royal Mencap Society.  
 5 How long have you held that post, Mr Robinson?  
 6 MR ROBINSON: For seven years.  
 7 MS SCOLDING: Ms Povey, could you tell us a little bit about  
 8 what the National Autistic Society is and what your role  
 9 is within it?  
 10 MS POVEY: Yes. The National Autistic Society was set up in  
 11 1962 to champion autistic children, adults and families.  
 12 We aim both to transform lives by providing direct  
 13 services, schools, adult services, helplines, et cetera,  
 14 and we aim to change attitudes through working with  
 15 government, with the general public and businesses, to  
 16 change the way that people think about autism.  
 17 MS SCOLDING: Roughly, do we know or have any idea how many  
 18 children and young people have a diagnosis of autism in  
 19 England and Wales?  
 20 MS POVEY: We don't know how many people have a diagnosis,  
 21 but the prevalence figures, so what we would expect, are  
 22 around 700,000 across the UK.  
 23 MS SCOLDING: The prevalence figures, are they  
 24 representative of the total number or the total who  
 25 should have a diagnosis?

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1 MS SCOLDING: You are more likely to be going to  
 2 a residential special school if you have an EHC Plan  
 3 than if you don't have one?  
 4 MS POVEY: That's right, yes.  
 5 MS SCOLDING: Mr Robinson, could you briefly describe to us  
 6 what Mencap is and what it does?  
 7 MR ROBINSON: We are the UK's leading learning disability  
 8 charity for the 1.4 million people with a learning  
 9 disability in the UK. We conduct research and campaign  
 10 to improve the lives of people with a learning  
 11 disability. We also run projects to trial innovative  
 12 new approaches to inclusion, and we run services,  
 13 including the social care services, including employment  
 14 services, in order to transform the lives of people with  
 15 a learning disability. We are also linked into  
 16 a network of over 400 local groups as well, so across  
 17 the country.  
 18 MS SCOLDING: Perhaps you'd like to explain, you have used  
 19 the word "learning disability". What do you mean by  
 20 that? What sort of individuals would people recognise  
 21 as those with learning disabilities?  
 22 MR ROBINSON: A learning disability is a reduced  
 23 intellectual capability. It is very distinct from other  
 24 impairments that may be confused with it, so things like  
 25 dyslexia, things like mental health, those are very

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<p>1 distinct from learning disability. Learning disability                  2 is lifelong, it cannot be cured, and there is a range of                  3 different needs across learning disabilities, so you                  4 could have mild or moderate learning disabilities where                  5 you may require help or support in certain elements of                  6 their life through to those with severe and profound                  7 learning disabilities who may require support in all                  8 aspects of their daily life.                  9 MS SCOLDING: You have said there are 1.4 million people                  10 with learning disabilities in the UK. Do we have any                  11 idea of how many children and young people might be                  12 identified as having a learning disability within that                  13 cohort?                  14 MR ROBINSON: The latest estimate of that number is around                  15 286,000 children and young people aged 0 to 17. We know                  16 that 180,000 of those are boys and 106,000 -- 107 for                  17 girls.                  18 MS SCOLDING: Again, is it similar to that with autism, that                  19 more boys than girls are diagnosed because of the way                  20 that the diagnosis is undertaken, or is it the case that                  21 it is more likely to be men than women who have learning                  22 disabilities?                  23 MR ROBINSON: Learning disabilities is sort of an                  24 indiscriminate condition. Whilst I don't know the exact                  25 reasoning, I would err towards what Carol has said.</p> <p style="text-align: center;">Page 61</p>	<p>1 MS SCOLDING: We have obviously heard from                  2 Dame Christine Lenehan this morning and she has                  3 identified four broad groups of children who may well go                  4 into the residential special school sector. We have                  5 asked you to come today, as you represent, probably, the                  6 two largest groups of individuals whose children may end                  7 up boarding or living away from home in some form of                  8 residential setting. What I am going to ask and discuss                  9 with you first is the particular vulnerabilities of                  10 children who present with either autism or learning                  11 disabilities, particularly in respect of their                  12 vulnerability to abuse by an adult.                  13 So if we can turn to you first, Ms Povey, you, in                  14 your witness statement -- Ralph, would you mind getting                  15 up Ms Povey's witness statement? It is NAS000017_010.                  16 This is paragraphs 49 to 54 of your witness statement.                  17 You identify that many children with autism lack some of                  18 the skills required to keep them safe in educational                  19 settings or report sexual abuse when it happens. Could                  20 you tell us a little bit about what those features are                  21 and what those particular vulnerabilities are?                  22 MS POVEY: Certainly. One of the core impairments that many                  23 autistic children have is that they struggle with                  24 communication, they have difficulties with                  25 communication. Therefore, they may not be able to first</p> <p style="text-align: center;">Page 62</p>
<p>1 identify abuse and then report abuse when that happens.                  2 They also struggle with social interaction. So many                  3 children may not -- may struggle to understand what                  4 friendships are, what good, healthy relationships are,                  5 and may really want friendships, because that's what                  6 they see other children having. That can make them very                  7 vulnerable because they may well do things that are                  8 unhealthy or harmful to make friends, to be popular.                  9 MS SCOLDING: You identify, at paragraph 50, a number of                  10 features that make it harder to identify whether sexual                  11 abuse is taking place. Perhaps we could run through                  12 those. So the first one is that their sexual                  13 development may well be out of step with their emotional                  14 and wider social development. Perhaps you would like to                  15 tell us a little bit about this?                  16 MS POVEY: Yes. People's sexual development, their                  17 emotional development may not be aligned with their                  18 sexual development. That could result in inappropriate                  19 behaviours, people stripping off in all sorts of                  20 different environments, public masturbation, they may                  21 have limited understanding of what is appropriate at                  22 different times in their lives.                  23 I was -- previously, I was involved with a situation                  24 where a grown man felt himself very much to be at                  25 a similar level with young children and ended up</p> <p style="text-align: center;">Page 63</p>	<p>1 engaging in sexual activity with those young children,                  2 thinking that they were really very similar, which of                  3 course they weren't.                  4 I also mention here about echolalia, which is                  5 about --                  6 MS SCOLDING: Perhaps you could describe what echolalia is.                  7 It is a term which is common for those who know about                  8 autism, but less common for the general public.                  9 MS POVEY: Echolalia is a repeating of words or phrases they                  10 have heard either immediately or it can be years after                  11 phrases have been heard. As Dame Christine said, there                  12 is always a way of understanding what children are                  13 experiencing, but it can be very confused if they are                  14 using phrases, say from the television or from their                  15 family or from teachers that they may have heard many,                  16 many years ago. So that can make it very difficult to                  17 understand what's actually going on with that child.                  18 MS SCOLDING: You also identify that there's difficulties                  19 with non-verbal communication. So that's understanding                  20 those body language signals we all give off, if, for                  21 example, we don't want somebody to touch us or we don't                  22 want somebody to be near us.                  23 MS POVEY: That's right. They may find it difficult to                  24 understand gesture, a facial expression and, similarly,                  25 in an expressive way, they may inform people of</p> <p style="text-align: center;">Page 64</p>

<p>1 something and not use what we would generally think of                  2 as appropriate expressions. Again, an example I can                  3 give from an adult is someone who was talking about her                  4 mother's death, and people thought that she didn't care                  5 about her mother because she didn't understand that                  6 you're supposed to change your face and your gesture and                  7 all those sorts of things.                  8 MS SCOLDING: You also identify that autistic children may                  9 have difficulty predicting what happens next and may                  10 find it difficult to change their behaviour and                  11 response. So they are quite rigid, is that right, in                  12 terms of they like predictability?                  13 MS POVEY: Yes, absolutely. They may also not learn from                  14 previous situations. So if it is slightly different,                  15 they may not be able to generalise that what has been                  16 harmful in one situation can also be harmful in                  17 a different situation. So that, again, makes them very                  18 vulnerable.                  19 MS SCOLDING: They have also, as you identified there,                  20 difficulties managing their own anxiety and, therefore,                  21 they might -- I think some people call them meltdowns or                  22 crises. They find it difficult to manage their                  23 emotional responses to things that we might not think of                  24 as particularly distressing or upsetting.                  25 MS POVEY: That's right. What is very anxiety-producing for</p> <p style="text-align: center;">Page 65</p>	<p>1 an autistic child may be very different from what most                  2 people would find anxiety-producing. So that may be to                  3 do with wanting to keep things the same, wanting to                  4 partake in particular rituals, wanting to make sure that                  5 they finish things at a particular time, that they start                  6 and finish. When those routines are disrupted, it can                  7 be extremely distressing, and the behaviour may seem out                  8 of proportion to the actual incident.                  9 MS SCOLDING: You have already identified that there is                  10 a large measure of crossover between children with                  11 autism and children who have what's called sensory                  12 processing issues. As I understand it, that means                  13 problems with touch or the senses in some way or                  14 another. So they might not like particular fabrics,                  15 they might not like particular tastes and textures.                  16 MS POVEY: That's right.                  17 MS SCOLDING: How can that make them more vulnerable?                  18 MS POVEY: In all sorts of ways. It may be that they can't                  19 actually understand their own internal processing. So                  20 even things like hunger they may not recognise, having                  21 to -- wanting -- for some children, that hyper- and                  22 hypo-sensitivity, may be not wanting to be touched, but                  23 it actually might be wanting deep pressure and finding,                  24 you know, deep pressure relieves their anxiety or                  25 horseplay, you know, physical play, and that can vary</p> <p style="text-align: center;">Page 66</p>
<p>1 not only child to child, but actually it can vary in the                  2 same individual. So at some point -- at some point in                  3 the day, they may be over-aroused sensorily and may need                  4 to perhaps sit in a very dark room on their own for                  5 a while, and then, at other times, they need a much more                  6 intensive, sensory experience.                  7 MS SCOLDING: You also identify that some autistic young                  8 people will hurt themselves sometimes as a result of                  9 repetitive behaviour or because they can't make                  10 themselves understood or for a variety of other reasons;                  11 is that right?                  12 MS POVEY: That's right, yes.                  13 MS SCOLDING: Mr Robinson, are the vulnerabilities that                  14 Ms Povey has identified for those with autism the same                  15 for those with learning disabilities or are there                  16 differences? I'm particularly thinking about the fact                  17 that their sexual development is likely to be out of                  18 step with their wider emotional and social development.                  19 MR ROBINSON: That's definitely something I would recognise                  20 in people with a learning disability, absolutely.                  21 MS SCOLDING: Are there any other particular vulnerabilities                  22 for those with learning disabilities other than that                  23 which I have just identified?                  24 MR ROBINSON: I would probably divide it into actual and                  25 perceived vulnerabilities. They are both contributing</p> <p style="text-align: center;">Page 67</p>	<p>1 factors to vulnerability. When we look at the perceived                  2 vulnerabilities, public attitudes towards people with                  3 learning disability are often to infantilise or often to                  4 consider those individuals, potentially, even, as --                  5 some people don't even consider people with learning                  6 disabilities to be equal human beings. In that context,                  7 we are looking at a situation in which those individuals                  8 are therefore potentially more likely to be the subject                  9 of predatory behaviour, and in terms of actual                  10 vulnerabilities, we -- I would agree entirely with what                  11 Carol said about communication. The importance of                  12 communication, both in terms of understanding what's                  13 happening and whether something is inappropriate and                  14 also in terms of identifying the way in which you can --                  15 basically, the way in which you can express yourself and                  16 tell other people that things are happening.                  17 MS SCOLDING: So people with learning disabilities will have                  18 difficulties understanding with what other people are                  19 trying to say to them, they will not understand the                  20 nefarious motivation of other individuals, and may also                  21 be less likely to be able to tell us or tell the people                  22 around them that problems are happening in their lives?                  23 MR ROBINSON: Absolutely. I think that's kind of                  24 exacerbated by the fact that people with a learning                  25 disability are used to relying on others, to being</p> <p style="text-align: center;">Page 68</p>

<p>1 supported by people within a social care and other                  2 context, and so the reliance and the intimate contact or                  3 otherwise, contact with other individuals, is less alien                  4 than it might be for other people. So if you are                  5 experiencing closeness with someone, that might be                  6 reflective of a number of things for someone with                  7 a learning disability.</p> <p>8 MS SCOLDING: Ms Povey, going back to you, I know that the                  9 National Autistic Society has produced some guidance                  10 called "Safeguarding young people on the autistic                  11 spectrum", which I think came out either late last year                  12 or early this year, which was written by yourselves                  13 alongside the Department for Education. You                  14 particularly identify -- Ralph, would you mind getting                  15 up NAS000016_014-015, please. This in particular                  16 identifies particular issues there are with online                  17 safety. Perhaps you'd like to tell us a little bit                  18 about the particular problems that arise for those with                  19 autism in the online world.</p> <p>20 MS POVEY: Certainly. For many young people -- young                  21 autistic people, they are more at home in the online                  22 world rather than having to undertake face-to-face                  23 interactions. Not all, but for many people, that's an                  24 environment that they are very comfortable in.                  25 Because of exactly the issues I mentioned in general</p> <p style="text-align: center;">Page 69</p>	<p>1 that make them vulnerable, that difficulty in                  2 understanding other people's motivations and in two-way                  3 communication, they are even more vulnerable online.                  4 So they can easily get bullied and they may really                  5 struggle to understand that someone that they think is                  6 their friend, that they perhaps are playing games with                  7 and everything, actually have malevolent motivations,                  8 and that's a really difficult and I think quite                  9 sophisticated thing for many people to understand, but                  10 for people -- for autistic children who have got real                  11 difficulties in understanding the motivations of others,                  12 that is particularly difficult.</p> <p>13 MS SCOLDING: Can I just give a couple of examples of where                  14 problems might arise. So you might have a young person                  15 who joins Facebook or other sort of social media sites                  16 and not realise that you have to be careful about who                  17 you're friends with, so will just say to anyone who pops                  18 up on the feed, I'll be their friend. Is that something                  19 which is quite common?</p> <p>20 MS POVEY: That's right. And, of course, they will see                  21 their -- they often have very few friends at school,                  22 really struggle in what most people would call real                  23 friends, and then, to know that you can go online and                  24 you can have thousands of friends would make many                  25 vulnerable young autistic people even more vulnerable</p> <p style="text-align: center;">Page 70</p>
<p>1 because they think suddenly they are popular, and that's                  2 not something they experience in their day-to-day, live                  3 world. They may be bullied at school, they may really                  4 struggle in their interaction and their relationships,                  5 and yet, online, they have got thousands of friends.</p> <p>6 MS SCOLDING: Another issue could also be that their                  7 behaviour online could also be not understanding social                  8 boundaries. So, for example, asking somebody else to be                  9 your friend on Facebook and writing them messages maybe                  10 once might be okay, but young people with autism, as                  11 I understand it, may well send, you know, 50 messages,                  12 100 messages, not understanding that that is not an                  13 appropriate response. Is that something which is quite                  14 common as well?</p> <p>15 MS POVEY: Yes, I think it is. Again, there are lots of --                  16 autistic people learn through very explicit rules, and                  17 yet not only in the real world, in schools, et cetera,                  18 but online, there are implicit rules that are very                  19 rarely made very clear. So, again, they still get it                  20 wrong, and that can be then very distressing when it                  21 goes wrong and they thought they had quite a successful                  22 online life.</p> <p>23 MS SCOLDING: Mr Robinson, is this something of which                  24 similar difficulties are found with those with learning                  25 disabilities, or are there different problems arising</p> <p style="text-align: center;">Page 71</p>	<p>1 from the online world, so to speak?</p> <p>2 MR ROBINSON: I think to a greater or lesser extent there                  3 are similarities in terms of the use and the value of                  4 online forums in terms of interacting with others.                  5 I think what I would add with people with learning                  6 disabilities is the sharing of personal information we                  7 find is quite common.</p> <p>8 MS SCOLDING: What do you mean by "the sharing of personal                  9 information"? Could you give me some practical                  10 examples?</p> <p>11 MR ROBINSON: Absolutely. So sharing addresses, sharing                  12 telephone numbers, sharing those kind of details,                  13 photographs as well. I think beyond that as well                  14 there's -- there seems to be a preference that we have                  15 come across of people with a learning disability                  16 favouring online chat -- video chat as opposed to                  17 written chat. I think that comes down to preferred                  18 methods of communication as well. I think that                  19 obviously creates a vulnerability in and of itself.</p> <p>20 MS SCOLDING: Now, we have an example, and I'm asked to ask                  21 these questions to you in particular, Ms Povey, on                  22 behalf of A7, who is represented by Ms Harrison of                  23 Slater &amp; Gordon Solicitors. We are going to hear from                  24 someone who was the victim of child sexual abuse at                  25 a school called Stony Dean later in the week. He now</p> <p style="text-align: center;">Page 72</p>

<p>1 has a diagnosis of autism, but didn't have at the time                  2 that he was attending the school. In his witness                  3 statement, he sets out that he wasn't asked the right                  4 questions when asked about his contact. So he, in fact,                  5 says one of the teachers said to him, "Are you close to                  6 Mr Bulley?", and his response was, "Yes, I am with him                  7 all the time". Obviously, what the teacher wanted to                  8 know is, "Are you engaging in a sexual relationship with                  9 Mr Bulley?", which is what was happening, but, again, is                  10 this a sort of obvious example of where it's very                  11 important to use precise and explicit language for those                  12 who have autism?                  13 MS POVEY: That's right. Most of us communicate within                  14 a context that we understand, so in this room, I would                  15 communicate in a different way than I would chatting at                  16 home over dinner. So we understand that within                  17 different environments, different contexts, you use                  18 different words, and that is often very hard for                  19 autistic young people. So they therefore take literally                  20 the question that they are asked. They won't assume                  21 that the teacher is asking about harm or abuse, they                  22 will answer that question, and the question was, "Are                  23 you close?", and that was the correct answer to the                  24 question that he was being asked. It would be very                  25 difficult to make that jump to understanding what the</p> <p style="text-align: center;">Page 73</p>	<p>1 questioner actually wanted to know.                  2 MS SCOLDING: Do you think this therefore means that staff                  3 who work with those, particularly in a residential                  4 special school setting, should all be trained in                  5 communicating with children with autism? I mean, are                  6 there any sort of general qualifications which are in                  7 existence for those sorts of things, or should there be?                  8 MS POVEY: To your first question, yes, staff should be                  9 trained in communicating with autistic children and                  10 adults, but also there needs to be training in how to                  11 communicate with that individual, because every autistic                  12 person is different, and there are some things that you                  13 can learn around autism that will help you to                  14 communicate. But you do have to understand the                  15 particular way that each individual communicates, and                  16 there are qualifications right the way through, from                  17 conferences and one-day courses through to degrees in                  18 autism.                  19 MS SCOLDING: But, I mean, is there any mandatory necessity                  20 for those who teach in residential special schools to                  21 have any form of qualification?                  22 MS POVEY: Not autism-specific.                  23 MS SCOLDING: But do you think, for example, as part of an                  24 inspection regime, one of the things that Ofsted or --                  25 it is usually going to be Ofsted, in the context of</p> <p style="text-align: center;">Page 74</p>
<p>1 residential special schools -- there should be a sort of                  2 record log of training which should be checked?                  3 MS POVEY: Yes.                  4 MS SCOLDING: Does that happen at the moment, and should it                  5 happen?                  6 MS POVEY: I'm not sure. I think it does, but I'm not                  7 100 per cent sure on that.                  8 MS SCOLDING: Another example that A7 gives is that he told                  9 staff that Mr Bulley was a paedophile, and staff, again,                  10 thought he was just being rude. So, again, I mean, this                  11 was a school that, although it said it was a school for                  12 children with moderate learning difficulties but largely                  13 with communication difficulties as well, again, given                  14 the nature of that young person, isn't this something                  15 which, you know, would have set you on alert if a child                  16 was using a term like "paedophile" in that context?                  17 MS POVEY: Yes, absolutely. I think it is also really                  18 important for there to be opportunities to listen to                  19 children. No matter what the way they are                  20 communicating, they really need to feel that they will                  21 be listened to if they do disclose in whatever form, and                  22 often it will be in unusual ways, perhaps using unusual                  23 language. But the staff who are working with that child                  24 really should be able to pick up on anything like that,                  25 because what -- I mean, it must be so distressing for</p> <p style="text-align: center;">Page 75</p>	<p>1 that man, knowing that, in his way, he told people what                  2 was happening.                  3 MS SCOLDING: So we have identified here -- this is both to                  4 you, Ms Povey, and also you Mr Robinson -- the                  5 particular issues to do with being listened to but also                  6 the difficulties with communicating effectively. Is                  7 there, therefore, a more significant -- I'm assuming                  8 that there is, therefore, a much more significant                  9 problem in young people with disabilities disclosing                  10 abuse to any kind of service, and also of those                  11 services' reactions to that abuse being managed                  12 appropriately. Ms Povey first, maybe, and then                  13 Mr Robinson.                  14 MS POVEY: Yes, absolutely. There needs to be a culture,                  15 first of all, where people are listened to and where, if                  16 there is disclosure, it's taken seriously, and children                  17 need to know that it's okay to do so.                  18 MS SCOLDING: How have you found, both of you and your                  19 organisations, social services and the police in                  20 particular when there were criminal justice issues, how                  21 far did they understand and are able to manage                  22 effectively pursuing allegations about disabled                  23 children? Maybe I'll ask Mr Robinson to reply first to                  24 that, because you expressly mention it in your witness                  25 statement.</p> <p style="text-align: center;">Page 76</p>

<p>1 MR ROBINSON: I think, first of all, to say about the                  2 importance of communication, and the fact that that is                  3 the thing that connects us to society and everything                  4 around us and helps us to understand what is going on.                  5 So often, communication is actually disguised in other                  6 things. Everyone is trying to communicate, and they may                  7 have a variety of different ways of doing it.                  8 First of all, the idea of saying that someone isn't                  9 communicating something across to someone or isn't able                  10 to articulate something that has happened to them                  11 I believe is a nonsense and just requires much more                  12 creative solutions to that.                  13 MS SCOLDING: Obviously we deal with a criminal justice                  14 system that almost exclusively relies upon you having                  15 enough oral abilities to be able to communicate fairly                  16 effectively what's happened to you and when it happened                  17 to you and why -- not so much why it happened to you,                  18 but what happened to you and when it happened to you.                  19 How able have the criminal justice agencies or                  20 social services been in being able to understand and be                  21 creative, Mr Robinson, in your terms?                  22 MR ROBINSON: We have identified, through anecdotal                  23 evidence, that there is a significant, I guess, dearth                  24 of expertise in doing this within the criminal justice                  25 system, and I believe that was also highlighted in</p> <p style="text-align: center;">Page 77</p>	<p>1 a report which I referred to --                  2 MS SCOLDING: If we could get up MEN000001_002 at                  3 paragraph 6. At the moment, and certainly since 2000,                  4 there has been a system of what's known as special                  5 measures within the criminal justice system, which                  6 includes both the provision of specific evidence                  7 gathering in advance of any prosecutorial process and                  8 then the use of what's often called intermediaries, who                  9 are largely speech language therapists, psychologists of                  10 some description, who provide that support. Do you                  11 think that the system as it is currently working in                  12 practice, Mr Robinson and Ms Povey, works and is                  13 effective?                  14 MR ROBINSON: I believe those are important measures, but                  15 I don't think that the system is working as well as it                  16 could do. I think there is -- what we have encountered                  17 is more of a cultural issue, which calls into question                  18 the reliability of children, in particular with                  19 a learning disability, and the testimony that they can                  20 give, particularly from the perspective, as you                  21 mentioned before, of their ability to speak and give                  22 particular details which might be -- which the case                  23 might hinge on. So I think that there is a lot more                  24 that needs to be done, and I think it comes down to                  25 understanding the way that people might want to</p> <p style="text-align: center;">Page 78</p>
<p>1 communicate, which might not just be in a one-to-one                  2 conversation, it could be -- and, actually, all the best                  3 practice shows it is across multiple different forms of                  4 communication. It might be a one-to-one interview, it                  5 might be using talking maps, it might be using Makaton,                  6 it might be using parents' testimonies as well.                  7 MS SCOLDING: But how many police forces, realistically,                  8 have people trained in talking maps or Makaton? I would                  9 imagine probably none, if one's being realistic. There                  10 may well be intermediaries who have that expertise, but                  11 to ask -- aren't you sort of asking too much of                  12 the criminal justice system to expect them to have                  13 expertise in those particular sorts of difficulties or                  14 do you think that the prevalence of criminal behaviour                  15 against such people with learning disabilities, it's                  16 vitally important that such training is put in place?                  17 MR ROBINSON: If we are weighing it up -- yes, of course it                  18 is a lot to ask of a particular organisation to have                  19 that level of expertise. Intermediaries, as you say,                  20 may be able to have that to hand, and I believe that                  21 they should do. I think that the -- what we need to                  22 balance is the expectation on the criminal justice                  23 system with regard to that expertise versus the prospect                  24 of children who are experiencing sexual abuse not having                  25 those claims taken seriously, not having justice</p> <p style="text-align: center;">Page 79</p>	<p>1 realised. I think, when you balance the two up, I would                  2 argue that the latter is far more important, that we are                  3 potentially ignoring a whole raft of cases. Indeed, we                  4 don't know exactly how many cases there are because of                  5 the issues that I flagged already. So I think, in the                  6 balance, we need -- it is about looking at what we can                  7 gain from that as well as the difficulties.                  8 MS SCOLDING: Because, I mean, I would have expected, if                  9 you'd come to speak to us 20 years ago and identified                  10 that there are still significant cultural barriers to                  11 reporting and that there are problems and people don't                  12 believe people with learning disabilities or don't view                  13 them as credible witnesses, that that would have been                  14 something that I would have expected. But we have had                  15 sort of 20 years -- well, the Disability Discrimination                  16 Act came in 1995. So we have had over 20 years,                  17 25 years, of awareness raising. Have things, however,                  18 on the ground really changed, both Ms Povey and                  19 Mr Robinson? Mr Robinson maybe first and then Ms Povey.                  20 MS POVEY: Sure. It would be wrong to not acknowledge that                  21 there has been progress, and there are a number of                  22 examples of accessible information, for example, being                  23 used by government agencies, particularly the Department                  24 for Health and Social Care. So there is progress in                  25 that regard. But I think the issue is that there is</p> <p style="text-align: center;">Page 80</p>

<p>1 a degree of prioritisation within protected                  2 characteristics, and, when you look at certain protected                  3 characteristics, such as LGBT --                  4 MS SCOLDING: If I can just identify for the general public,                  5 under the Equality Act 2010 various characteristics are                  6 described as protected, and that would be age, race,                  7 sex, sexual orientation, gender, religious belief, and                  8 disability is one of them, and age.                  9 MR ROBINSON: Exactly. And so, as you pointed out with that                  10 list, there are a wide variety of protected                  11 characteristics. Disability is one of them, but within                  12 that there is a degree of prioritisation in terms of                  13 which particular characteristics you are particularly                  14 interested in or focused on trying to address, and                  15 I think sometimes disability is not seen as a priority                  16 issue within that compared to some of the other                  17 characteristics, and I think that is a big problem.                  18 MS SCOLDING: Ms Povey, do you have anything you want to                  19 add?                  20 MS POVEY: I would suggest that over the past 20 years there                  21 is more awareness, certainly, of autism within the                  22 criminal justice system, but it's very patchy. There                  23 are some police forces that have brought in autism                  24 training, but it's usually been driven where there is                  25 perhaps a parent in an influential position who has done</p> <p style="text-align: center;">Page 81</p>	<p>1 some really great work but it's not -- it certainly                  2 isn't across the system.                  3 MS SCOLDING: Do either of you know or has there been any                  4 research either by your organisations or others about                  5 not just complainants with these difficulties in the                  6 criminal justice system, but also defendants who have                  7 autism, because, as we know from the work of                  8 Professor Simon Hackett, children with disabilities are                  9 much more likely to be referred for their sexualised                  10 behaviours into the criminal justice system, or other                  11 ways. Has there been any research done on autism in the                  12 criminal justice system or learning disabilities in the                  13 criminal justice system and the experience of                  14 defendants?                  15 MS POVEY: Not specifically defendants. We have got some                  16 good practice on the NAS website for all parties. There                  17 is some good information on the Advocate's Gateway,                  18 where there is quite a lot of information around autism.                  19 MS SCOLDING: Just to identify, the Advocate's Gateway is                  20 something which solicitors and barristers use, and it is                  21 sort of free information and resources about how to ask                  22 people questions with learning disabilities and with                  23 autism.                  24 MS POVEY: Yes. There has been some work done by                  25 a researcher, Katie Maris, on how to work primarily with</p> <p style="text-align: center;">Page 82</p>
<p>1 witnesses, but obviously it is about how best to                  2 question people. So some of that could be used in other                  3 situations.                  4 But it is quite -- it's quite patchy.                  5 MS SCOLDING: Again, Ms Povey, I am going to turn firstly to                  6 Ms Povey and then to Mr Robinson. If one is looking at                  7 the experience of the defendant, one is obviously                  8 starting to engage with sexually harmful behaviour                  9 between children with disabilities or between children                  10 with disabilities and those without. You deal with                  11 particular complexities of managing sexually harmful                  12 behaviour in this context at paragraphs 55 to 68 of your                  13 witness statement, and the guidance that I have already                  14 referred to also deals with this.                  15 Ralph, is the system now working again? Can we get                  16 up NAS000016_024. Again, this is specific guidance                  17 that's been published. How readily available is this?                  18 Is this something which was sent to all local                  19 authorities, all schools or ...?                  20 MS POVEY: I don't know where it was sent out to. Certainly                  21 it can be found on our website.                  22 MS SCOLDING: Is it the case that those with autism are more                  23 likely to be identified as having caused harmful sexual                  24 behaviours to others than neuro-typical children may be?                  25 MS POVEY: I don't know if that's the case.</p> <p style="text-align: center;">Page 83</p>	<p>1 MS SCOLDING: Can we see the particular issues that might be                  2 raised, for exactly the reasons that we have already                  3 identified, is because they may have little or no                  4 concept of the consequences of their actions. Ralph,                  5 would you mind enlarging this page slightly?:                  6 "They may not have the language or insight to                  7 describe their feelings, may not be able to appreciate                  8 it and they may be proficient at copying others'                  9 behaviours to fit in."                  10 It identifies there the particular vulnerabilities,                  11 but it also identifies that it is imperative that                  12 individuals who have harmed others may also, themselves,                  13 be victims of abuse. How does the NAS deal with this,                  14 or does it do any work to deal with this or work on                  15 trying to engage with children and young people to try                  16 to avoid them becoming labelled as having harmful sexual                  17 behaviours?                  18 MS POVEY: Yes. We have developed some training resources.                  19 I think it's -- it is really important that, whatever --                  20 the needs of young autistic children, and the teaching                  21 that goes on, has to be done in a way that is very                  22 autism-specific. So it has to be very explicit, it has                  23 to be very clear, and actually quite individualised.                  24 There are different motivations for autistic                  25 children who may harm others. Part of it is around that</p> <p style="text-align: center;">Page 84</p>

<p>1 lack of appropriateness. So they may simply have sexual                  2 needs and not realise that it's in an inappropriate                  3 place or environment --                  4 MS SCOLDING: So sort of masturbating in public would be an                  5 obvious example of that?                  6 MS POVEY: Exactly, yes. There are other reasons which may                  7 be around the difficulties in social interactions, so                  8 wanting, perhaps, a friend or girlfriend or                  9 a relationship and seeing from the media, from other                  10 people, the way that other people appear to have those                  11 relationships, which may be around having sex with them                  12 and all sorts of things, without -- so they may want to                  13 undertake the action without recognising that it's not                  14 actually a reciprocal relationship that they have, and                  15 of course, you know, there's always been the issues of                  16 seeing things on television and reading things. Now, of                  17 course, we have the internet and it's very easy for                  18 children to presume that everyone else is having great                  19 relationships and having a wonderful time out there, and                  20 they are the only person who isn't sort of participating                  21 in that sort of life.                  22 MS SCOLDING: Would you therefore say that if young people                  23 are in a residential special school setting, they are,                  24 by all likelihood, because they are spending a lot of                  25 time there, possibly more likely to either engage in</p> <p style="text-align: center;">Page 85</p>	<p>1 sexually harmful behaviour or to be the subject of                  2 sexually harmful behaviour, if you've got lots of people                  3 together, and none of them have particularly good ways                  4 to communicate with each other socially and sexually, in                  5 the middle of their adolescence?                  6 MS POVEY: I'm not sure if there is a higher likelihood.                  7 I think there are different environmental issues, so                  8 they may -- certainly children with very complex needs                  9 may be more used to having their intimate care                  10 undertaken by a range of different people, so that is                  11 important. They may be living with people with                  12 challenging behaviour, all of whom have particular                  13 difficulties. So there are certainly differences in the                  14 environments that young people are living with, which                  15 could contribute to higher levels of vulnerabilities.                  16 MS SCOLDING: Mr Robinson, in your witness statement, you                  17 identify the study by Professor Hackett, but you                  18 identify that the reasons why young people with                  19 disabilities may be identified as having, or                  20 perpetrating, sexually harmful behaviour are complex.                  21 Ralph, can we get up MEN000001_003 at subparagraphs (a)                  22 to (f). This is taken largely from Professor Hackett's                  23 work and we are obviously going to hear from him                  24 tomorrow, but does this summary identify effectively the                  25 reasons why individuals might be labelled or identified</p> <p style="text-align: center;">Page 86</p>
<p>1 as having perpetrated sexually harmful behaviour?                  2 MR ROBINSON: Yes.                  3 MS SCOLDING: The reasons why that might take place.                  4 MR ROBINSON: Exactly, yes. I think if I could just go into                  5 a bit of detail about some of those points?                  6 MS SCOLDING: Yes, please.                  7 MR ROBINSON: When we look at (b), which is increased chance                  8 of exposure to certain adverse life events, I think it                  9 is important to see this in the context -- the wider                  10 context. So families are under immense pressure in                  11 terms of the care and responsibilities for children,                  12 seven out of ten care for the child more than 15 hours                  13 every single day. Without the right support in place to                  14 meet those needs, there is an increased chance of that                  15 family breaking down, of dysfunction developing. Within                  16 that dysfunction, there are multiple different elements                  17 of potential adverse life events, which could include                  18 mental health issues, it could include violence, it                  19 could include family breakdown.                  20 Within that context, we are looking at children with                  21 a learning disability who are growing up with an                  22 increased likelihood of witnessing certain events which                  23 they may well then replicate further on in their lives                  24 or may make them more susceptible to not understanding                  25 what healthy relationships look like. So I think that's</p> <p style="text-align: center;">Page 87</p>	<p>1 a really important point to make.                  2 The other point is around the lack of support. We                  3 have seen £2.4 billion worth of cuts to early                  4 intervention since 2010. It has left a lot of children                  5 with learning disabilities without support -- without                  6 the social care support that they might need to help                  7 meet their needs. Those needs then escalate to a point                  8 at which they can manifest themselves in sexual                  9 violence, can manifest themselves in inappropriate                  10 sexual behaviour, and so I think, looking at the root                  11 causes of all these things is really important, how they                  12 emerge.                  13 So just to look at the fact that we are listing                  14 a range of issues, they do often have a fairly common                  15 root cause, which is a lack of needs being met earlier                  16 on down the line, which then manifest themselves in                  17 behaviours which are seen to be sexually deviant,                  18 I guess.                  19 MS SCOLDING: So both of you have identified the need for                  20 those with learning disabilities and those with autism                  21 to have good support. Part of that is also going to be                  22 about teaching them about sex and relationship                  23 education, and it's been generally identified, I think,                  24 by everyone that the -- and in particular by yourself,                  25 Mr Robinson, that the quality of sex and relationship</p> <p style="text-align: center;">Page 88</p>

<p>1 education for individuals with learning disabilities is                  2 poorer than it is within the context of the general                  3 public. What needs to be done to improve sexual and                  4 relationship education for these young people?                  5 Mr Robinson, if maybe you go first and then Ms Povey.                  6 MR ROBINSON: I think the fact that relationship education                  7 in primary and relationships and sex education in                  8 secondary schools has been made mandatory is really                  9 important. It means that there has to be a place for it                  10 on the curriculum, it means that it must be taught. But                  11 the problems are basically around the inaccessibility of                  12 relationships and sex education in the past. We                  13 surveyed families, 21 per cent of parents said that they                  14 believe their child doesn't have the skills and                  15 knowledge -- not only 21 per cent of parents think their                  16 child has the skills and knowledge to form healthy                  17 relationships and friendships.                  18 MS SCOLDING: So over 80 per cent of families think their                  19 children are not able to form healthy and positive                  20 romantic relationships and friendships because they                  21 haven't had the education and training?                  22 MR ROBINSON: Exactly, they haven't had the education and                  23 training, they haven't had it in a way which is                  24 accessible, they haven't had it in a way which is                  25 tailored to particular learning needs of people with</p> <p style="text-align: center;">Page 89</p>	<p>1 a learning disability. That needs to be taken as                  2 a specific group. When we are talking about learning                  3 disability and the rates and the speed at which someone                  4 learns, that's going to be, often, slower than the rest                  5 of the class, it is going to require several iterations                  6 in order to reinforce that, it is going to have to be                  7 applied within a certain context so they can                  8 understand -- as Carol has mentioned earlier, you can't                  9 understand the difference between private and public and                  10 what's appropriate within those contexts. Those things                  11 aren't happening at the moment. Teachers don't have,                  12 necessarily, the level of training that they require,                  13 they don't have the access to the resources that they                  14 might need to make that accessible.                  15 MS SCOLDING: Is that within mainstream settings or within                  16 special school settings or within both?                  17 MR ROBINSON: It is within both, absolutely.                  18 MS SCOLDING: Ms Povey, is there anything you would like to                  19 say about this, particularly in terms of teaching                  20 autistic children. You have talked about                  21 generalisation. One of the points that I would imagine                  22 is therefore raised is the fact that you have to                  23 literally teach in context, so there is no point saying                  24 to somebody, "When you first meet a girlfriend, X", in                  25 a way, you have to be beside them when that girlfriend</p> <p style="text-align: center;">Page 90</p>
<p>1 might present themselves; is that right?                  2 MS POVEY: Yes, that's right, and the curriculum really                  3 needs to be adapted in that way. For those people with                  4 very complex needs, it may be it needs to be                  5 differentiated to such an extent that you are doing that                  6 individual teaching.                  7 MS SCOLDING: Do you think, at the moment -- obviously there                  8 has been statutory guidance published. It makes                  9 reference to the needs, I think, in three or four                  10 paragraphs, of those with disabilities; identifies that                  11 they will need, or possibly need, slightly different                  12 forms of training and slightly different resources. Do                  13 you think that there needs to be like a suite of                  14 resources and training provided? At the moment, the                  15 concept behind it is that schools will very much do it                  16 themselves, that there is a range of things out there.                  17 Do you think that's good enough for the children that                  18 you are involved with?                  19 MS POVEY: No. Certainly from my point of view, that isn't                  20 good enough because I don't think certainly many                  21 mainstream schools, though there are some really good                  22 examples, have that general understanding of autism to                  23 be able to adapt their curriculum.                  24 MS SCOLDING: Mr Robinson?                  25 MR ROBINSON: I think that the guidance itself is wholly</p> <p style="text-align: center;">Page 91</p>	<p>1 inadequate in terms of being able to meet the needs of                  2 children with a learning disability.                  3 If we look at where we're starting from, that                  4 perspective of parents not believing their child gets                  5 appropriate support, there needs to be an extra amount                  6 of information, there needs to be an extra impetus to                  7 bring that level up higher. At the moment, the guidance                  8 just refers to the fact that you might need to                  9 differentiate the curriculum in general terms and a lot                  10 of that responsibility is then delegated to schools who,                  11 as we established, don't necessarily have that expertise                  12 in place, particularly around SEN within learning                  13 disability.                  14 There are available resources, and I understand that                  15 there will be measures put in place to give some schools                  16 a level of training with the implementation of the new                  17 curriculum. However, there needs to be a whole lot                  18 more. That needs to be much better quality assured. At                  19 the moment, there is no real way of --                  20 MS SCOLDING: There is no quality assurance, no minimum                  21 standards, no, "It has to have these components", there                  22 is no quality assuring it in any way, as I understand                  23 it?                  24 MR ROBINSON: Exactly. That's going to have huge impacts on                  25 children with learning disabilities and other children,</p> <p style="text-align: center;">Page 92</p>

1 not only from the perspective of likelihood of  
 2 understanding whether they are being abused or whether  
 3 they are going to be perpetrating -- likely to  
 4 perpetrate harmful sexual behaviour, but also in their  
 5 understanding of their own identity within society. It  
 6 helps you to understand your sexuality, it helps you to  
 7 understand relationships and interactions with other  
 8 people. That has much wider consequences as well, and  
 9 I think we are really setting children up to fail if we  
 10 don't address those now.

11 MS SCOLDING: One of the other ways in which children can  
 12 receive sexual relationship education are community  
 13 learning disability nurses who certainly sometimes  
 14 provide a very valuable role, in terms of sex and  
 15 relationship education, both to parents and to children.  
 16 Are there enough of those to kind of plug the gap?  
 17 Particularly, I'm thinking about those children with  
 18 more complex disabilities, because a large number of  
 19 children with autism wouldn't come into the learning  
 20 disabilities bracket, necessarily?

21 MS POVEY: I have rarely come across a learning -- someone  
 22 from a community learning disability team working  
 23 directly with families in that way. I'm sure there are  
 24 some really great ones around, but it's not  
 25 a standardised response, as far as I am aware.

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1 MS SCOLDING: Ms Povey in particular, given the discussion  
 2 we had earlier about the different presentation of girls  
 3 to boys, is there, or should there be, a different focus  
 4 on teaching girls with autism about sex and  
 5 relationships and could you tell us a little bit about  
 6 what that different type of approach should be?

7 MS POVEY: Certainly. As I mentioned earlier, girls present  
 8 very differently from boys. They often appear more  
 9 passive. Their distress may be more internalised rather  
 10 than externally demonstrated, or their anxiety may be  
 11 internally directed. They often spend quite a lot of  
 12 time trying to work out how friendships and  
 13 relationships work, how people work, but it may -- they  
 14 may struggle to actually internalise that and truly  
 15 understand it, but may appear very able.

16 They often appear to be the perfect girl in the  
 17 class. So they will look around and think, "Who is this  
 18 really working for? That one. They are perfect.  
 19 Therefore, I will be that", and take on those  
 20 characteristics.

21 So therefore, not only is it more difficult to  
 22 identify the needs of girls, particularly around their  
 23 vulnerabilities, but when they are identified, they need  
 24 to be supported and taught in a very different way that  
 25 understands that what you see is not necessarily what

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1 MS SCOLDING: Mr Robinson?  
 2 MR ROBINSON: Community learning disability nurses and  
 3 learning disability nurses generally are a really  
 4 valuable resource to help to ensure that the needs of  
 5 children or people with a learning disability are met.  
 6 Unfortunately, there really aren't enough of those  
 7 across the country. I think that has a huge impact on  
 8 the ability for inclusion within society, for the  
 9 ability of people with a learning disability to get the  
 10 support that they need, and also, I think, important  
 11 to -- I haven't touched on this before, but I was  
 12 meaning to, around the prisons or the kind of criminal  
 13 justice element, is the actual identification of needs.  
 14 We are seeing a lot of people with mild/moderate  
 15 learning disabilities entering into the criminal justice  
 16 system without their needs having been identified  
 17 beforehand, and the same goes for access to services as  
 18 well. If you aren't understanding -- or you aren't  
 19 aware of someone's needs, then you can't properly meet  
 20 those needs. I think there is a valuable role for  
 21 community learning disability nurses to play in that and  
 22 to make sure that there's a kind of cross -- sort of  
 23 cross kind of sector approach to that in terms of  
 24 education, health and social care and other agencies  
 25 that must be involved.

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1 you actually get and what is going on underneath there.  
 2 Some of the things that we have seen work well are  
 3 sometimes girls' groups, women's groups work quite well,  
 4 where there can be that peer support. Often girls have  
 5 very low self-esteem because they don't feel that --  
 6 they feel that they are failing in trying to get the  
 7 lives that the other girls seem to sail through so  
 8 easily.

9 So certainly, yes, the teaching needs to be very  
 10 different because they may not question what they are  
 11 being told. They may feel it's not appropriate. Like  
 12 I say, they are often very passive and think that they  
 13 will survive what is sometimes a very difficult  
 14 environment in a school or something just by  
 15 disappearing into the background. So they won't say,  
 16 "I don't understand. I don't know what you're talking  
 17 about. It doesn't work like that for me".

18 MS SCOLDING: Is that different from men or boys with  
 19 autism?  
 20 MS POVEY: It's difficult because it's not just straight  
 21 gender --  
 22 MS SCOLDING: I know it is not a one size fits all, it is  
 23 a continuum and it is a spectrum.  
 24 MS POVEY: There are men who present in that very same way.  
 25 We often talk about the female profile rather than it

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1 being just females. But in general, it is different,  
 2 yes, and it's -- in education, you will probably get  
 3 more optimum results in something as sensitive as sex  
 4 education in working separately with those groups.  
 5 MS SCOLDING: Going on from sex and relationship education,  
 6 obviously what Dame Christine has also told us is  
 7 important is the development of self-advocacy and  
 8 advocacy skills, so having people that can speak for you  
 9 and that you learn how to speak for yourselves. I know  
 10 you have both had an opportunity to look at the witness  
 11 statement of Triangle, who are a specialist  
 12 communication agency. They have identified, as we dealt  
 13 with with Dame Christine, the need for a specialist  
 14 advocacy service for young people with disabilities  
 15 which is kind of independent of the institutions they  
 16 may attend because there is a concern about staff acting  
 17 as gatekeepers in those situations and, also, if the  
 18 concern is within the institution, but you're sending  
 19 somebody in to communicate who is also part of that  
 20 institution, concerns about disclosure. Is there  
 21 anything that either of you wish to say -- maybe  
 22 Mr Robinson first and then Ms Povey -- about the need  
 23 for better or different sorts of advocacy services than  
 24 those that are currently run?  
 25 MR ROBINSON: I agree entirely, and I would go even further,

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1 at the moment.  
 2 MR ROBINSON: As a general rule, yes, and I think they are  
 3 incredibly valuable processes. I think, as you alluded  
 4 to, the access to that advocacy, there can be some  
 5 gatekeeping, there can be difficulty accessing those,  
 6 because those institutions who may have something to  
 7 hide are -- have a vested interest in making sure that  
 8 the investigation is isn't as thoroughly carried out as  
 9 it could be.  
 10 MS SCOLDING: Ms Povey, can I ask you about this,  
 11 particularly as the National Autistic Society runs  
 12 residential boarding schools for young people, about  
 13 whether or not you provide any independent advocacy  
 14 services or whether or not you think you should?  
 15 MS POVEY: We don't, across the board, provide independent  
 16 advocacy services. We do have our independent visitor  
 17 who has that very independent role. If people have very  
 18 particular needs, we will try to access advocacy, but it  
 19 is very hard to get independent advocacy, and  
 20 particularly --  
 21 MS SCOLDING: Why is that? Why is that hard?  
 22 MS POVEY: I think it is resources. There aren't very many  
 23 around, and particularly advocacy where they have got  
 24 the skills and expertise and experience, such as  
 25 Triangle, to work with children who communicate in quite

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1 potentially, to differentiate between children and young  
 2 people and adults as well. I think within the context  
 3 of the Children and Families Act 2014, that was the  
 4 debate, around the need for that level of advocacy to be  
 5 tailored to children and then I guess, within that, to  
 6 be tailored to the particular communication needs that  
 7 disabled children might represent. So I would endorse  
 8 that fully. I think that there needs to be independence  
 9 as part of that process as well, as you say, to avoid  
 10 any vested interests or any kind of contradictions in  
 11 terms of responsibilities, and I think the difficulty  
 12 comes in establishing that process, in finding how that  
 13 process will work, and there's been numerous attempts to  
 14 find independent advocacy and a lot of them in the past  
 15 have not been successful.  
 16 MS SCOLDING: For example, certainly as far as adults are  
 17 concerned, we have had the development of  
 18 the independent mental health advocate and the  
 19 independent mental capacity advocate. There isn't  
 20 a sort of similar service that exists for children, as  
 21 I understand it. Is that right?  
 22 MR ROBINSON: Yes, although they would have access, I think,  
 23 to an incursive part of the new deprivation of liberty  
 24 safeguards with the liberty protection safeguards.  
 25 MS SCOLDING: They might have in the future, but they don't

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1 complex ways.  
 2 MS SCOLDING: Can I now turn to the current statutory  
 3 guidance for those with special educational needs and  
 4 disabilities. You identify, Ms Povey, in your witness  
 5 statement some concerns you have. Ralph, would you mind  
 6 getting up DFE001862\_027. This is the passage of  
 7 Keeping Children Safe in Education. I think it is  
 8 paragraph 107. This is what is specifically said about  
 9 children with special educational needs and disabilities  
 10 within the main body of the guidance. So there is one  
 11 paragraph which identifies the additional safeguarding  
 12 challenges and the additional barriers which exist.  
 13 I think those barriers are those that you have  
 14 identified and so has Dame Christine.  
 15 Is this good enough, in terms of providing an  
 16 explanation and within the national statutory guidance?  
 17 Is this enough, in terms of emphasising either the  
 18 vulnerability or providing practical steps and measures  
 19 as to how to manage them?  
 20 MS POVEY: No, certainly not. I think the idea of having  
 21 one paragraph for -- I mean, we have heard this morning  
 22 not just about the level of vulnerability, but the wide  
 23 variation between children's needs. It's very complex,  
 24 and I think one paragraph here doesn't do it justice.  
 25 MS SCOLDING: Mr Robinson?

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<p>1 MR ROBINSON: I would agree entirely. I think I would                  2 highlight the fact that there's quite a lot of -- within                  3 that paragraph, most of the emphasis is on the barriers                  4 as opposed to the solutions, and we know that this is                  5 a group that is much more likely to require safeguarding                  6 arrangements and, you know, people may well be aware of                  7 some of the barriers, but the challenge lies in finding                  8 how we can try to militate against some of those                  9 additional risks.                  10 If we look at the first bullet point, which talks                  11 about assumptions of indicators of possible abuse such                  12 as behaviour, mood and injury which relate to the                  13 child's disability without further explanation, that's                  14 talking about the -- you know, the underlying causes of                  15 behaviours that challenge and things like that, and                  16 that's a hugely complex issue that requires certainly                  17 more than one and a half lines of explanation, and                  18 almost assumes a prior knowledge from professionals in                  19 so doing, and I think that therefore -- there needs to                  20 be at least some accompanying parallel guidance which                  21 maybe goes into a bit more detail about that in terms of                  22 practice.                  23 MS SCOLDING: Dame Christine said, "I don't think that there                  24 needs to be separate guidance about disabled children                  25 and children with special educational needs, but there</p> <p style="text-align: center;">Page 101</p>	<p>1 needs to be built into Keeping Children Safe in                  2 Education a much more extensive guide". Do you both                  3 agree with that or do you think there should be serious                  4 consideration given to separate guidance being issued?                  5 MS POVEY: I would agree with Dame Christine, that it                  6 needs -- it just needs to be strengthened and children                  7 with disabilities need to be part of this guidance,                  8 a much greater part.                  9 MR ROBINSON: I guess there's probably two sides to this,                  10 really. I think, you know, the principle of what                  11 Christine said around integrating it within existing                  12 guidance is really important, because we want to impress                  13 upon professionals the fact that meeting the needs of                  14 children with SEN is part and parcel of what they should                  15 be doing within their daily lives. However, the                  16 additional length -- the potentially additional length                  17 of that guidance may well then be a deterrent for people                  18 to read it in that level of detail. So I think there is                  19 a careful balancing act. So I understand both sides of                  20 the argument. I guess that's kind of fence sitting                  21 a little bit, but I can see the merits of both.                  22 MS SCOLDING: We move from statutory guidance to local                  23 authority oversight of those within residential                  24 settings. We dealt with Dame Christine with some                  25 guidance that was issued in 2009 about the need for</p> <p style="text-align: center;">Page 102</p>
<p>1 local children's safeguarding boards, as they then were,                  2 to set up specialist training, to have specialist                  3 groups, to reach out to specialist schools. Ms Povey,                  4 from the NAS's experience, as a provider of services,                  5 how well do local children safeguarding boards provide                  6 services to you and to children with disabilities and                  7 special educational needs?                  8 MS POVEY: I think it varies enormously, depending on which                  9 local authority we are dealing with. There is some good                  10 practice out there and there is some really poor                  11 practice, where it's really never taken off. So it                  12 varies.                  13 MS SCOLDING: Mr Robinson?                  14 MR ROBINSON: I would agree that it is highly variable, and                  15 I think the fact that local children's safeguarding                  16 boards have been reformed would suggest that there is an                  17 acknowledgement there that they could be more effective,                  18 and it would be interesting to see -- obviously, it is                  19 very early days for the new iteration, but it would be                  20 very interesting to see how that works; in particular,                  21 the way in which the evidence gathered by those                  22 particular partnerships can be collated in a way that                  23 gives rise -- or gives an understanding, a better                  24 understanding, of some of the trends that exist to help                  25 inform policy making in future.</p> <p style="text-align: center;">Page 103</p>	<p>1 MS SCOLDING: The next question I want to ask is really                  2 directed to Ms Povey, as a provider of services. Do                  3 local authorities undertake appropriate planning and                  4 quality assurance before they place children within                  5 their setting?                  6 MS POVEY: Some do and some don't. I would agree with                  7 Dame Christine that, unfortunately, many of                  8 the admissions that we get are after many previous                  9 placements have broken down. Therefore, the information                  10 that we get may be patchy and actually may be flawed.                  11 We always undertake our own assessments to try to really                  12 understand the individual needs of each child, but the                  13 information that we go on is sometimes -- it sometimes                  14 isn't there.                  15 So that planning part is absolutely vital, because                  16 that's what will give a consistency with all staff. If                  17 they very clearly know what outcomes you're trying to                  18 achieve for that child, what the -- where the                  19 difficulties that child has, where their potential is,                  20 where their academic potential as well as their welfare                  21 potential is, but quite often we find that children's                  22 actual behaviour and needs vary from the information                  23 that we have actually received.                  24 MS SCOLDING: Does that, therefore, cause problems in terms                  25 of the potential for sexual violence, for example, where</p> <p style="text-align: center;">Page 104</p>

<p>1 that information has not been communicated clearly to                  2 you?                  3 MS POVEY: It can. It can. I think often -- again, there                  4 are two sides. Sometimes a child can come with a label                  5 of being very, very violent and challenging and, you                  6 know, these really very dramatic labels, and as soon as                  7 they are in a setting and an environment with people                  8 that understand them, it just disappears and you have                  9 a completely different child.                  10 Likewise, it may be that the local authority and                  11 family are so desperate to get a place, particularly in                  12 a specialist setting, that you don't get the right                  13 information and, actually, you realise you've got                  14 a child with far more complex needs than maybe you're                  15 able to manage in a congregate setting. So it's                  16 sometimes -- it's quite difficult to sort of                  17 disaggregate the information that you get so that you                  18 can put the right package of support around that child.                  19 MS SCOLDING: Do local authorities visit when they should?                  20 Now, every local authority ought to attend the annual                  21 review, which is on an annual basis. There is also                  22 specific regulations and guidance that they should visit                  23 settings at least once every six months if children are                  24 in long-term, residential placements. Does that happen?                  25 MS POVEY: No, not necessarily. It varies. Occasionally,</p> <p style="text-align: center;">Page 105</p>	<p>1 you will get a really good local authority that take                  2 a real interest in the child. But very often, even                  3 though you -- or we will invite the local authority,                  4 they just won't turn up.                  5 MS SCOLDING: So there is very limited -- I think somebody                  6 once said to me, "The only phone calls we ever get are                  7 from the finance people rather than from the education                  8 people". Is that something which accords with your                  9 view?                  10 MS POVEY: It can, but always remembering there are some                  11 really, really good local authorities, but very often --                  12 and it doesn't correlate with the level of complexity of                  13 the child at all.                  14 MS SCOLDING: Can we turn now to quality standards in                  15 residential special schools. Again, Ms Povey, this is                  16 largely for you because you run and manage these                  17 institutions. Firstly, how useful is the Independent                  18 Listener service, which is now identified -- I think                  19 they're called the Independent Person. How useful is                  20 that within the context of the children who attend your                  21 schools?                  22 MS POVEY: I think it is important and it is useful. It is                  23 important and useful because I very much agree with                  24 Dame Christine that the more there can be people coming                  25 into the schools and children going out and that sort of</p> <p style="text-align: center;">Page 106</p>
<p>1 two-way -- well, people coming in and out of schools,                  2 the better. I think that one of the key safeguarding                  3 measures or controls is the fact that there are people                  4 who care about the children in that school and are able                  5 to be part of it.                  6 MS SCOLDING: You also have some concern about the fact that                  7 the child protection standard isn't explicit enough in                  8 the current recommendations. Ralph, could we go to                  9 DFE001510_013, paragraph 11.1. We have looked at this                  10 in the context of music schools. This is the special                  11 schools standard. What's your concern about this? You                  12 identify in your witness statement that the child                  13 protection standard is not explicit enough and simply                  14 says, "The school ensures that arrangements are made".                  15 How do you think it should read?                  16 MS POVEY: I think, with a standard like this, it doesn't                  17 tell you exactly to what level, what does that actually                  18 mean, how do you -- how would the school know that they                  19 are making the correct arrangements to keep that child                  20 safe to the right level?                  21 MS SCOLDING: On the other hand, some people would say that                  22 that degree of flexibility enables people to look at                  23 what's going on on the ground rather than a more                  24 prescriptive level of, "You must do this, you must do                  25 that, you must do the other". Do you agree that there</p> <p style="text-align: center;">Page 107</p>	<p>1 are two sides to this particular coin?                  2 MS POVEY: Yes. But, as with so many of these things, good                  3 schools maybe don't need the level of prescription, but                  4 those schools who don't have the same values and                  5 standards and, perhaps, expertise are the ones that will                  6 need that level of prescription.                  7 MS SCOLDING: Dame Christine talked about the need to move                  8 from minimum standards to quality standards so that                  9 things look more like the Children's Home Regulations                  10 rather than the regulations as they currently are. Do                  11 you have any views about that, Ms Povey, as a provider                  12 of services?                  13 MS POVEY: Yes. I agree that the idea of having minimum                  14 standards for children who are, say, living with you                  15 38 weeks and having quality standards -- even just the                  16 words themselves say an awful lot, and the idea that                  17 some children should only get minimum standards and some                  18 should get quality standards doesn't seem equitable at                  19 all.                  20 MS SCOLDING: Mr Robinson, do you have any views about this?                  21 MR ROBINSON: Only insofar as I agree entirely, and I think                  22 that when you talk about minimum standards, and I've had                  23 many discussions with many different people about them                  24 over the years, and I think minimum standards almost                  25 implies sort of a race to the bottom in terms of, can</p> <p style="text-align: center;">Page 108</p>

1 you reach the bare minimum and, therefore, you're  
 2 fulfilling your obligations, whereas the nature of  
 3 quality standards is one that's more aspirational and  
 4 more person-centred.  
 5 MS SCOLDING: Ms Povey, turning now to safeguarding culture  
 6 in residential special schools, given the complexities  
 7 and vulnerabilities that you have identified, how does  
 8 your organisation secure, or ensure, that a safeguarding  
 9 culture is created? What are the sort of headlines of  
 10 that?  
 11 MS POVEY: I think, firstly, it comes from the top, and  
 12 that's not just the principal or head teacher, that's  
 13 governance as well. So right the way through the  
 14 organisation there has got to be a recognition that  
 15 safeguarding is absolutely non-negotiable at all times.  
 16 I think the other thing that I think is very important  
 17 in safeguarding is, we talk about culture, but culture  
 18 is made up of policies, processes and procedures. It is  
 19 made up of detail, lots of small detailed pieces, and  
 20 once they start to slip, I think it's very dangerous,  
 21 and if staff feel that no-one really -- even if we think  
 22 of the environment, you know, nobody cares about the  
 23 fact that some things are broken in a child's bedroom  
 24 and that same presumption of, "Maybe this child doesn't  
 25 matter all that much" seeps through the school or the

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1 be so in the residential special school. But I also do  
 2 recognise that there is a real crisis in workforce,  
 3 particularly for residential schools and children's  
 4 homes.  
 5 MS SCOLDING: What is that crisis?  
 6 MS POVEY: It is very poorly paid. The responsibilities,  
 7 rightly, are --  
 8 MS SCOLDING: Enormous.  
 9 MS POVEY: -- enormous, and we have a sector where they are  
 10 not valued. I pay my cleaner more than our staff, the  
 11 residential home staff, get paid, and that isn't right,  
 12 and that is a sector-wide issue.  
 13 So, yes, we need really high standards for our  
 14 training because staff in this sector are doing really  
 15 important things, but we also do need to make sure that  
 16 they are properly acknowledged and rewarded for that.  
 17 MS SCOLDING: Mr Robinson, do you have anything you want to  
 18 say or add to that? I know, obviously, Mencap don't run  
 19 services, but you have a lot of people who use your  
 20 service who are receivers of that service. Is there  
 21 anything else you would like to say?  
 22 MR ROBINSON: I agree entirely with Carol, but I think  
 23 there's also a need for sort of professional development  
 24 to be built in within -- staff training within  
 25 specialist residential colleges and schools. I think

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1 organisation. So that attention to detail in all areas  
 2 is really, really important and, of course, making sure  
 3 that you get the right staff with the right values, that  
 4 you recruit to values as well as experience and  
 5 expertise, and that, when there are problems, they are  
 6 picked up really quickly.  
 7 So I actually that, as well as the big picture  
 8 stuff, an awful lot of it is about detail and attention  
 9 to detail.  
 10 MS SCOLDING: Do you have any views about the qualifications  
 11 and training of staff within your institution and  
 12 whether or not, for example, the heads of care, if  
 13 they're not running registered children's homes, should  
 14 have a similar sort of qualification to those you would  
 15 find in children's homes, which at the moment isn't  
 16 a prescription that the government enables? What sort  
 17 of further workforce development and staff development  
 18 do you think there needs to be in this sector, and I'm  
 19 specifically talking about the residential special  
 20 school sector, not the sector overall.  
 21 MS POVEY: I, again, can't see any reason why it should be  
 22 different, residential children's homes from residential  
 23 schools. So if it is felt that it's really important  
 24 for a manager of a children's home to have a particular  
 25 qualification, I can't see any reason why that shouldn't

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1 that provides an additional motivating factor, and  
 2 I think you are going to lose a lot of very good staff  
 3 if you don't have that.  
 4 MS SCOLDING: Ms Povey, you said earlier that the devil was  
 5 really in the detail, as far as running your schools are  
 6 concerned. One of the issues you raise within your  
 7 witness statement is that you have a policy within your  
 8 schools and within your organisation in general of  
 9 what's called kind of low-level reporting, so, sort of,  
 10 people write down everything, whether or not it's  
 11 immediately problematic or not. Firstly, how does it  
 12 work; secondly, how does it help you in identifying  
 13 safeguarding problems?  
 14 MS POVEY: Yes. It's really important that staff feel that  
 15 they can talk about or disclose anything that they see  
 16 that they are uncomfortable with, and they don't feel  
 17 that they have to particularly make a meeting to talk to  
 18 the head teacher or the designated safeguarding lead.  
 19 Therefore, we have cause for concern forms that can be  
 20 submitted if anyone is uncomfortable with anything that  
 21 they're seeing or just --  
 22 MS SCOLDING: Can that be something very small, like,  
 23 "I didn't really like the way he spoke to somebody", or,  
 24 "I wasn't really keen on ..."  
 25 MS POVEY: Exactly, yes, and that enables us then to see any

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<p>1 patterns. Again, it's important that people don't                  2 think, "Oh, well, this is just a one-off", because,                  3 actually, it may not be a one-off, it may be something                  4 that has happened perhaps with that staff member in                  5 other settings or other contexts.                  6 So it enables, at a central point, the principal and                  7 the DSL to be able to monitor any patterns. It again                  8 gets across that idea to all staff that they have                  9 a responsibility to report out anything that they see.                  10 MS SCOLDING: Turning on to reporting, do either of you have                  11 a view about whether or not there should be mandatory                  12 reporting implemented in residential special schools?                  13 Ie, either a criminal offence or a regulatory or                  14 disciplinary offence for people not to report                  15 suspicions, allegations or disclosure of abuse to                  16 social services or the police. Ms Povey first and then                  17 Mr Robinson.                  18 MS POVEY: It is quite difficult because, you know, a lot --                  19 we would rather over-report than under-report, and                  20 that's what we very clearly say to our staff. I think                  21 you do have to have that level of training and expertise                  22 so that you understand what is appropriate.                  23 Whether it should be mandatory or not is -- I think                  24 that's a difficult one. I think we would want to look                  25 a little bit more at that. But I think the</p> <p style="text-align: center;">Page 113</p>	<p>1 responsibility is with the local authority to determine                  2 what is a safeguarding issue, and I think it's very                  3 important that they take that responsibility very                  4 seriously.                  5 MS SCOLDING: Do you think they don't take that                  6 responsibility seriously at the moment, or do you think                  7 there is a lot of variation in terms --                  8 MS POVEY: I think there is variation.                  9 MS SCOLDING: -- of what's considered to be a referral --                  10 MS POVEY: Yes, what meets the threshold.                  11 MS SCOLDING: Mr Robinson, any views?                  12 MR ROBINSON: I think that with regard to reporting, I think                  13 that's an essential part of ensuring that some of those                  14 low-level things, even, aren't -- don't escalate, don't                  15 have a cumulative impact that leads to something bad                  16 happening, and we have always got to keep that in the                  17 back of our minds.                  18 Whether mandatory reporting is the right way,                  19 I don't have an explicit view on that, but I do think                  20 that if we take, for example, the use of restrictive                  21 interventions, which I know is outside the scope of                  22 the inquiry, which there is not a mandatory requirement                  23 on schools to report restrictive interventions, and what                  24 that means is that you never get a full understanding of                  25 the extent of the issue, but, more importantly, the</p> <p style="text-align: center;">Page 114</p>
<p>1 process of reflection for that school, learning what                  2 went wrong, where they can go and improve in future, is                  3 missed, and so maybe it is more about embedding                  4 a culture within a school to have that self-reflection,                  5 to have that monitoring reporting, without the fear of                  6 sanctions and without the fear that something -- you                  7 know, that they're going to be held above the parapet                  8 for it all.                  9 I think a really important part of it is reporting.                  10 I don't know if mandatory is necessarily the best way                  11 forward or not.                  12 MS SCOLDING: For both of you, my last question to you is,                  13 what would be the single-most useful change to keep                  14 children safer from sexual abuse within residential                  15 special schools? Ms Povey?                  16 MS POVEY: I think, for me, the key thing is ensuring that                  17 children are listened to, valued and, to be able to do                  18 that, staff, or whoever is doing that listening, needs                  19 to understand about autism, so, for me, understanding                  20 about the needs of autistic children, the way that they                  21 communicate, their vulnerabilities, is paramount.                  22 MS SCOLDING: Mr Robinson?                  23 MR ROBINSON: I think, in addition to what Carol said,                  24 I think it is important to look at the -- better                  25 identify, essentially, the needs of children with</p> <p style="text-align: center;">Page 115</p>	<p>1 a learning disability earlier on, so we don't get to the                  2 stage where they get to a special residential school                  3 without the full nature of their needs being identified,                  4 being known, because that is a recipe for things to be                  5 missed, for issues to go under the radar, and                  6 I mentioned in my witness report about the fact that we                  7 are aware of care and treatment reviews picking up that                  8 there has been sexual abuse historically that's happened                  9 to some children and young people and who are at risk of                  10 entering an inpatient unit. Those kind of issues, when                  11 you are retrospectively picking those things up                  12 afterwards, those could have been addressed earlier on.                  13 The risk factors are so serious that that could have                  14 been known a lot earlier if their needs were flagged at                  15 an earlier point.                  16 MS SCOLDING: Thank you very much. If you would like to                  17 wait there, the chair and panel may have questions for                  18 you.                  19 THE CHAIR: Yes, I have a couple of questions.                  20 Questions from THE PANEL                  21 THE CHAIR: When you were discussing the role of learning                  22 disability nurses, it reminded me of the kind of                  23 historic social versus medical model of intervention                  24 with learning disabilities. Has that disappeared now?                  25 Is it a fully-integrated model across health, social</p> <p style="text-align: center;">Page 116</p>

<p>1 care and education that is in operation?                  2 MR ROBINSON: I wish it were. I think the way that                  3 disability is viewed within different sectors is hugely                  4 variable. I think that if you even look at -- sorry,                  5 let's take health, for example, and it's much more about                  6 the particular medical needs of that particular                  7 individual, what that gives rise to in terms of medical                  8 interventions, then you move into an educational                  9 context, where that's looked at, and I think the idea                  10 within learning disability nurses of trying to bring it                  11 all together in terms of more social context is                  12 admirable, but is much more difficult to achieve.                  13 MS POVEY: Yes, I would agree. I think one of the very                  14 distressing things that we see is people thinking purely                  15 about their own budgets and trying to make sure that                  16 their budget is protected and that someone else takes                  17 the responsibility.                  18 THE CHAIR: Yes. It's clearly a problem that doesn't just                  19 apply to learning disability, unfortunately, either.                  20 MS POVEY: That's right.                  21 THE CHAIR: A second question from me. Are there                  22 alternatives to the residential special school model for                  23 children, alternatives that you know are effective?                  24 MS POVEY: I think one of the things that we often see, and                  25 I think it was reflected in Dame Christine's witness</p> <p style="text-align: center;">Page 117</p>	<p>1 statement, is people coming into a residential special                  2 school because the family is not able to cope, and                  3 I think, if there was better family support, and short                  4 breaks, then fewer children would end up in residential                  5 special schools. I think for some children it's                  6 absolutely right, but for some it's a default when other                  7 systems have gone wrong.                  8 THE CHAIR: Do you think there's a place for, shall we say,                  9 single placement residential units, for example, for                  10 those who can't live in the family home.                  11 MS POVEY: Yes. Again, the range of children's needs is so                  12 very varied, it's very wide indeed, but, yes, for some                  13 children, that would be appropriate.                  14 THE CHAIR: Do you have anything more to add?                  15 MR ROBINSON: I just add that I think what is really                  16 important with regard to disabled children is keeping,                  17 as far as is possible, and there should be very few                  18 exceptions to this, them within the local area in which                  19 they and their family and their support networks are,                  20 and I think too often, as Carol said, the default is to                  21 go to out of area, whereas, you know, each individual                  22 solution will be hopefully tailored to that individual                  23 person's needs, but the idea of keeping that family unit                  24 and that support network much closer to home is so much                  25 better because we know that 75 per cent of children who</p> <p style="text-align: center;">Page 118</p>
<p>1 live in out-of-area residential placements travel more                  2 than 20 miles away from home to get there, and that can                  3 affect family dynamics, it can affect safeguarding as                  4 well.                  5 THE CHAIR: Thank you. Thank you very much. We have no                  6 further questions. Thank you.                  7 MS SCOLDING: Thank you very much, chair and panel.                  8 (The witness withdrew)                  9 MS SCOLDING: Would now be an appropriate moment for the                  10 lunch time break?                  11 THE CHAIR: We will return at 2.00 pm.                  12 MS SCOLDING: Thank you very much.                  13 (1.07 pm)                  14 (The short adjournment)                  15 (2.00 pm)                  16 THE CHAIR: Ms Bicarregui?                  17 MS BICARREGUI: Thank you, chair. Chair and panel, we will                  18 now be hearing from A6, who was a pupil at                  19 Appletree School when he was a child.                  20 WITNESS RS-A6 (affirmed)                  21 Examination by MS BICARREGUI                  22 MS BICARREGUI: Good afternoon, thank you for coming.                  23 I have a few things to say to you before we start the                  24 questions. The first is, we can take a break at any                  25 time, so let me know if you want to stop. The second</p> <p style="text-align: center;">Page 119</p>	<p>1 thing is, you can look at your witness statement if you                  2 want to remember things, so you don't have to see this                  3 as a test of memory. Try not to mention the names of                  4 children that were pupils with you at Appletree.                  5 <b>A. Yes.</b>                  6 Q. Lastly, if I ask you to look at documents, they will                  7 come up on the screen in front of you. They are in the                  8 bundle. We can look at them there. But they will also                  9 be on the screen.                  10 Can I ask you to turn to your statement, which is in                  11 the file in front of you at A/1. Chair and panel, it is                  12 A/1 of core bundle E.                  13 You can't see your signature on that statement,                  14 I know, but did you sign that statement?                  15 <b>A. Yes.</b>                  16 Q. Is it still true, to the best of your knowledge and                  17 belief?                  18 <b>A. Yes.</b>                  19 Q. Have you had a chance to look at it recently?                  20 <b>A. Yes.</b>                  21 Q. A6, I am going to be asking you questions about when you                  22 were a young boy, mostly between the ages of 6 and 10.                  23 <b>A. Yes.</b>                  24 Q. You tell us very clearly in your statement that you                  25 don't remember everything that we are going to be</p> <p style="text-align: center;">Page 120</p>

<p>1 talking about?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. And that's absolutely fine. You also tell us where your</p> <p>4 solicitor has shown you documents so that you can</p> <p>5 remember what happened, and, again, you can tell us</p> <p>6 about things in those documents as well.</p> <p>7 <b>A. Yes, fantastic.</b></p> <p>8 Q. Could you tell us a little bit about what your life was</p> <p>9 like before you went to Appletree?</p> <p>10 <b>A. Bit of an open question. To be honest, I suppose</b></p> <p>11 <b>I didn't really come from the best family. I had two</b></p> <p>12 <b>parents, again, from my knowledge, I know my dad was</b></p> <p>13 <b>quite abusive to my mother and in turn was quite abusive</b></p> <p>14 <b>to myself. To be honest, there's not really much --</b></p> <p>15 Q. Shall we get your witness statement up, and that might</p> <p>16 help us with some specific things?</p> <p>17 <b>A. Yes, that would be brilliant.</b></p> <p>18 Q. Ralph, can we get up INQ004543_002. First of all, can</p> <p>19 we look at paragraph 6. There we see that you first</p> <p>20 came to the attention of social services in 1999, so you</p> <p>21 would have been, I think, about 3 years old, something</p> <p>22 like that?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. When an anonymous report said that they'd witnessed your</p> <p>25 birth mother assaulting you and hitting you with such</p> <p style="text-align: center;">Page 121</p>	<p>1 force that you were knocked to the ground and sustained</p> <p>2 facial bruising?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. That's not something you remember, presumably?</p> <p>5 <b>A. No.</b></p> <p>6 Q. But you've seen that in the reports?</p> <p>7 <b>A. Yes, yes, I have.</b></p> <p>8 Q. In paragraph 7, there were further reports of physical</p> <p>9 abuse and sexualised play and it says that your</p> <p>10 solicitor reports that you were telling people that</p> <p>11 people were inserting hammers into your bottom?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. This was from quite a young age, as I understand it.</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. If we go to paragraph 8, this tells us a little bit what</p> <p>16 school was like for you.</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. School wasn't a great experience at this age, was it?</p> <p>19 <b>A. No, not at all. Not at all.</b></p> <p>20 Q. Again, it talks about aggressive behaviour in class, but</p> <p>21 also that you were neglected?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. We see at the end that you seemed to dislike women and</p> <p>24 you were wearing what was described as inappropriate</p> <p>25 clothing. So this is before you were in Appletree;</p> <p style="text-align: center;">Page 122</p>
<p>1 that's right, isn't it?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. I think you were excluded from school a number of times?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. Again, we have talked a little bit about physical</p> <p>6 violence in your home life, and that sort of continued</p> <p>7 up until you went to Appletree; is that right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. I think, trying to summarise this, there was a lot of</p> <p>10 neglect and poor parenting. Do you agree with that?</p> <p>11 <b>A. Definitely, yes.</b></p> <p>12 Q. Would you say, looking back at this now, because you</p> <p>13 have had a chance to think about this a bit, that your</p> <p>14 behaviour, the way you behaved, was due to that neglect</p> <p>15 and that poor parenting?</p> <p>16 <b>A. Yeah, pretty much. I mean, it's a bit of a strange</b></p> <p>17 <b>argument, because you don't really know, especially as</b></p> <p>18 <b>a child. You haven't exactly got the -- you don't know</b></p> <p>19 <b>why you're misbehaving, all you know is that you are.</b></p> <p>20 <b>Looking at it with a bit of hindsight, you'd say, yes,</b></p> <p>21 <b>it was down to that, but it's one of those, you don't</b></p> <p>22 <b>really know, but you'd like to think it was.</b></p> <p>23 Q. I'd like to talk to you, then, about what it was like</p> <p>24 being at Appletree. In your statement -- I don't know</p> <p>25 if you want to turn to it particularly, but we are going</p> <p style="text-align: center;">Page 123</p>	<p>1 to look, first of all, at the times that you were</p> <p>2 restrained while you were there.</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. So that's paragraph 14 onwards.</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. Again, just to be clear about this, you went to</p> <p>7 Appletree when you were 6 years old?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And you left, I think, when you were 10; is that right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. In your witness statement, you tell us that you were</p> <p>12 restrained, I think, 242 times in a period of nearly</p> <p>13 15-months?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. What do you remember, if anything, about being</p> <p>16 restrained when you were at Appletree?</p> <p>17 <b>A. A lot.</b></p> <p>18 Q. A lot. Tell us about that?</p> <p>19 <b>A. Well, it was very varied. I mean, obviously restraints</b></p> <p>20 <b>aren't particularly the nicest experience anyway.</b></p> <p>21 <b>I mean, a lot of their restraints were very physically</b></p> <p>22 <b>painful, and obviously, being a young age, my way of</b></p> <p>23 <b>putting it is sort of, what, 6, 7, 8 years old, I don't</b></p> <p>24 <b>quite see how you need three members of staff to</b></p> <p>25 <b>restrain someone of that age. I know I did sustain</b></p> <p style="text-align: center;">Page 124</p>

1 quite a few injuries. I specifically remember carpet  
 2 burns, sprains. I think I quite badly damaged my ankles  
 3 at one point, due to them. A lot of the time, it  
 4 seemed, to a degree, unprovoked. It was always -- you  
 5 were goaded into it. All you had to do was say  
 6 something wrong and they were putting you into  
 7 a physical restraint.  
 8 Q. You say you felt you were goaded?  
 9 A. Goaded.  
 10 Q. What --  
 11 A. There are a few examples I remember. Once I think I was  
 12 on the top of the stairs in the children's home,  
 13 basically crying, upset. I can't remember entirely why.  
 14 I was 6 years old, so it could have been for anything.  
 15 It was one of those where there were -- so I think it  
 16 was one of the members of staff -- Denise, I think she  
 17 was called -- had a really bad way of going, "Well, you  
 18 know, you're not going to achieve anything. You won't  
 19 kick off. You're not going to get anything from this",  
 20 doing whatever she could to wind you up and wind you up  
 21 to the point where you would start, say, breaking  
 22 something. In my case, I always used to kick the  
 23 banister rails and stuff like that, and then that's the  
 24 excuse they needed to put you into a restraint. And  
 25 that was constant.

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1 A. I could have put it down to every day, every other day,  
 2 easily. I'm not quite sure what the records reflect,  
 3 but that was my experience.  
 4 Q. I don't know if you've had a chance to read the  
 5 statement of Cumbria County Council?  
 6 A. No.  
 7 Q. I don't know that we need to get it up, but they  
 8 describe some concerns about Appletree and they also  
 9 describe that there was a police investigation about  
 10 restraint while you were a pupil. Do you remember that  
 11 happening?  
 12 A. No.  
 13 Q. They say as well that a member of staff was fired. Do  
 14 you remember anything at all about that while you were  
 15 there?  
 16 A. No. Not as far as I'm aware, no.  
 17 Q. Again, in your statement, you tell us that the physical  
 18 restraints that you suffered meant that you didn't feel  
 19 you could tell people about some of the other things  
 20 that were happening?  
 21 A. Well, it's all about safety and security, isn't it? So  
 22 how are you supposed to put your faith and trust in  
 23 people that spend every single day basically hurting you  
 24 as a young child? You don't. You have no trust in  
 25 these people anymore.

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1 Q. You've described some restraints where there were three  
 2 people involved?  
 3 A. Yes.  
 4 Q. Did it also sometimes take -- was it sometimes not like  
 5 that, was it sometimes just holding you or removing you  
 6 from a room or were there always restraints?  
 7 A. There were always restraints that I remember. Always  
 8 quite physical restraints.  
 9 Q. There's one time I think that you point us to in your  
 10 witness statement where a certain borough council were  
 11 involved because I think you were restrained for  
 12 a period of an hour and a half?  
 13 A. Yes.  
 14 Q. Again, is that something you remember or is it something  
 15 that you have seen in the papers?  
 16 A. Again, it's something I've seen. I do remember very  
 17 long-term restraints again, obviously, but at the time  
 18 I specifically remember biting a chunk out of one of  
 19 the members of staff because I was in a restraint for  
 20 such a long period of time. Obviously, it's essentially  
 21 panic, and that was pretty much very commonplace, you  
 22 ended up causing more injuries to yourself or to other  
 23 people because you were essentially in a state of panic  
 24 constantly.  
 25 Q. How often do you think this was happening?

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1 Q. So when things started happening, when sexual things  
 2 started happening, with C1, why did you feel you  
 3 couldn't tell people about that?  
 4 A. Again, it was all down to trust. Even going by the  
 5 staff dynamic, I mean, all the staff were friends, all  
 6 the staff knew each other. You had no trust, you had no  
 7 faith. If you had a problem with one member of staff,  
 8 it would essentially fall on deaf ears and that's sort  
 9 of the way you felt. Obviously, you've got these people  
 10 and the way the staff worked is, essentially, from the  
 11 day you're brought in there, you're essentially -- you  
 12 are the problem, you are the problem child. So anything  
 13 that comes out your mouth is rubbish.  
 14 Q. You said that all the staff were friends. How did you  
 15 know that at the time?  
 16 A. I believe Denise was very good friends with a person  
 17 called Kath Banks for years, because they knew each  
 18 other outside of work, and apparently a lot of the other  
 19 members of staff were brought in by them as being  
 20 friends of friends, friends of family, and they  
 21 essentially all knew each other outside of work. And  
 22 there was only the odd couple that were actually sort of  
 23 independent of this little group, as it were.  
 24 Q. So most of the staff knew each other outside of work,  
 25 you thought?

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1 **A. Yes.**  
 2 Q. I'd like to look at some other behaviours that were  
 3 happening, so there was the physical restraints, but  
 4 there was also, amongst pupils, this time, some sexual  
 5 behaviour going on, wasn't there?  
 6 **A. Yes.**  
 7 Q. You describe people having sex with you and touching  
 8 you, other boys touching boys --  
 9 **A. Yeah.**  
 10 Q. -- in a way that was sexual. Where was this happening?  
 11 **A. A lot of the time, it was -- it started off so it**  
 12 **happened around the grounds. People used to go into**  
 13 **their bedrooms later on at night. That used to be quite**  
 14 **a common one, because I'm assuming the staffing wasn't**  
 15 **exactly adequate. And then, as you were absconding used**  
 16 **to be one of the worst. Obviously, because you were**  
 17 **outside of school grounds, there was a lot less possible**  
 18 **intervention, not that there was anyway, but ...**  
 19 Q. Okay. But it was in both places?  
 20 **A. Yeah.**  
 21 Q. Your recollection is --  
 22 **A. Yes.**  
 23 Q. -- in school, or in the homes, and also when you were  
 24 absconding?  
 25 **A. Yes.**

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1 **to have a really -- they monitored phone calls, so if**  
 2 **you were phoning family, talking to family, it was**  
 3 **always on speaker phone, they could always hear**  
 4 **everything you were saying. Even with the therapy**  
 5 **sessions, you have got the staff that are sitting in the**  
 6 **waiting room or, in some cases, even coming with you,**  
 7 **and, to be honest, I don't think there was any**  
 8 **opportunity.**  
 9 Q. Could you have spoken to your social worker?  
 10 **A. I didn't actually know I had one at the time. It took**  
 11 **me three years before I actually realised I had a social**  
 12 **worker, before I actually met someone, two or three**  
 13 **years.**  
 14 Q. I think you say again in paragraph 45 of your statement  
 15 that you didn't think you saw your social worker maybe  
 16 once every six months or something like that?  
 17 **A. Yes.**  
 18 Q. So that wasn't somebody you could have talked to at that  
 19 point?  
 20 **A. No.**  
 21 Q. Was there anyone that you remember who came to the  
 22 school from outside? In other words, who wasn't  
 23 a member of staff, who wasn't a social worker, somebody  
 24 who came to listen to the children or to talk to the  
 25 children?

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1 Q. You describe in your witness statement this happening in  
 2 a bedroom. So in this case, C1 and C3 coming into your  
 3 room --  
 4 **A. Yes.**  
 5 Q. -- and sexually abusing you. How often do you think  
 6 that happened?  
 7 **A. Again, my memory is not horrifically the best with it.**  
 8 **I can probably count five, six, maybe, times that I can**  
 9 **actually, like, clearly remember. Other than that,**  
 10 **a lot of it seemed to -- especially after the more major**  
 11 **incident, a lot of it tended to just blank out. I don't**  
 12 **remember a lot of what was going on at the time.**  
 13 Q. Do you have any idea why staff didn't know that people  
 14 were going into each other's bedrooms?  
 15 **A. No. Not a clue.**  
 16 Q. I think you've touched on this a little bit, but when  
 17 this started to happen, there wasn't anyone -- you've  
 18 told us there was no-one in the school that you could  
 19 talk to.  
 20 **A. No.**  
 21 Q. Was there anyone outside of the school that you could  
 22 talk to?  
 23 **A. Not really. I mean, it was the thing -- I mean, they've**  
 24 **put you in a home that's essentially hundreds of miles**  
 25 **from anyone you know. It's -- you're there. They used**

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1 **A. No. The only -- no, other than the occasional visit**  
 2 **from a parent. Not at all, no.**  
 3 Q. Are you familiar with an organisation called Ofsted?  
 4 **A. Yes.**  
 5 Q. Do you ever remember them visiting when you were there?  
 6 **A. I think I remember the odd inspection once or twice, but**  
 7 **for the most part, we never saw them. It was always,**  
 8 **they were in the office or -- you never really saw them,**  
 9 **you never spoke to them.**  
 10 Q. When you say you remember the odd inspection, you don't  
 11 remember being spoken to as part of it?  
 12 **A. No, never.**  
 13 Q. I'd like to look at the times that you ran away. It's  
 14 called absconding in all of the papers that we've got.  
 15 **A. Yes.**  
 16 Q. There is a record book kept from the time which shows  
 17 that you ran away a lot. Do you remember that?  
 18 **A. Yes.**  
 19 Q. If you want to look in your statement, this is at  
 20 paragraph 29 of your statement. It lists a number of  
 21 the occasions when you ran away.  
 22 **A. Yes.**  
 23 Q. I think you say in your statement that there are also  
 24 other occasions that aren't written down; is that right?  
 25 **A. Yes.**

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1 Q. What was the main reason that you were running away?  
 2 **A. My one was pretty much, it was a horrible -- it was an**  
 3 **absolutely abysmal place to live in. It was horrible.**  
 4 **One of my main points was about feeling trapped, was one**  
 5 **of my main ones that goes on about that. You're**  
 6 **basically stuck in the school, everyone, staff-wise,**  
 7 **knows each other, you're hundreds of miles away from**  
 8 **anyone you know, you're constantly, as it says, getting**  
 9 **restraints, getting goaded, and obviously, your only way**  
 10 **out, you escape. To a degree, it kind of became a bit**  
 11 **of a fine art, as it were, of getting out of school,**  
 12 **pretty much.**  
 13 Q. You often ran away with C1, didn't you?  
 14 **A. Yes.**  
 15 Q. But it also looks like you ran away before he came to  
 16 the home?  
 17 **A. Yes.**  
 18 Q. So this was something you were doing --  
 19 **A. Constantly.**  
 20 Q. -- from the beginning of when you arrived. Now, you  
 21 may not remember this, A6, but sometimes it looks like  
 22 you were running to the hay bales. Was that because it  
 23 was a good place to hide?  
 24 **A. It was a brilliant place to hide, before we realised**  
 25 **that -- we started using the railway lines, because the**

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1 sexually assaulted during a number of these absconding  
 2 incidents. Do you remember that?  
 3 **A. Yes.**  
 4 Q. Do you remember if, every time that you ran away with  
 5 C1, these sexual assaults happened?  
 6 **A. I couldn't tell you. Not for every time. I'm not sure.**  
 7 Q. Did anyone at the time tell you that you might not be  
 8 safe if you ran away with C1?  
 9 **A. Not at all. You got the usual rubbish, which is, you**  
 10 **know, "If you're running away, you're kids on your own",**  
 11 **you know, all the usual talk you get from the police,**  
 12 **the usual stuff. But never anything specifically to**  
 13 **that child.**  
 14 Q. What did staff do to try to stop you running away?  
 15 **A. More -- think they just got a bit more -- for example,**  
 16 **started putting bars on the windows, I think the**  
 17 **security, they started upgrading to a lot of electronic**  
 18 **security. All the doors had mag locks on, stuff like**  
 19 **that. It was pretty much -- it just seemed to be more**  
 20 **security, but obviously, as you learn, you just find**  
 21 **ways around it. That seemed to be the main one.**  
 22 Q. Did you sometimes run away because you'd been  
 23 restrained?  
 24 **A. That was one of the main reasons we used to leave, was**  
 25 **I used to hate the staff and hate the school.**

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1 **staff and the police weren't allowed to come on them.**  
 2 **But the hay bales originally, and because, obviously,**  
 3 **being a really small child, you can fit in between all**  
 4 **the crevices. It's very difficult to find someone.**  
 5 Q. That's a number of -- we see that on the logs a number  
 6 of times.  
 7 **A. Yes.**  
 8 Q. So that was why. Then you said about the railway lines.  
 9 Was it because it was too dangerous to follow you? Is  
 10 that the --  
 11 **A. Well -- I don't know how we figured this out, but we**  
 12 **ended up from then starting to always go on the railway**  
 13 **lines because one way or another -- I don't remember**  
 14 **exactly how, we realised that nobody would follow onto**  
 15 **them. Apparently, they weren't allowed to, at all. So**  
 16 **obviously that's where, most of our absconsions, we'd**  
 17 **basically walk straight down the railway line as far as**  
 18 **we could go because nobody would come and get you,**  
 19 **police included.**  
 20 Q. There were never any accidents involved?  
 21 **A. With trains? No. There were a couple of incidents**  
 22 **where I think we were throwing rocks at trains or**  
 23 **something like that, but never anything major.**  
 24 Q. You later told a foster parent -- this is after you'd  
 25 left Appletree. You later told her that you were

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1 Q. I want to talk to you about something that happened on  
 2 a night in November 2006, so you were a lot younger than  
 3 you are now. I know that you've been shown a number of  
 4 documents that help you remember what happened that day.  
 5 So that was one of the days that you ran away from  
 6 school, wasn't it?  
 7 **A. Yes.**  
 8 Q. Can you tell me, using not their names, but can you tell  
 9 me who else you ran away with on that day?  
 10 **A. I can't actually entirely remember.**  
 11 Q. That's all right. I know from the paperwork. It was  
 12 C1.  
 13 **A. Yes.**  
 14 Q. And C3.  
 15 **A. Yes.**  
 16 Q. Had you run away before with C1?  
 17 **A. Yes, several times.**  
 18 Q. Now, you probably don't know how old those two boys  
 19 were. Do you remember at all?  
 20 **A. I think C1 was about 12 and C3 I think was about my age,**  
 21 **as far as I remember.**  
 22 Q. So what I know from the papers is that C1 was about 12  
 23 and a half.  
 24 **A. Yes.**  
 25 Q. So that's right. And C3 was 11. But at this point you

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1 were 9 years old, and you were about to turn 10 later  
 2 that --  
 3 **A. Yes.**  
 4 Q. So do you remember at the time thinking that C1 was  
 5 older than you?  
 6 **A. Well, he was, not just in age, but stature, he was a lot**  
 7 **taller, generally bigger, so obviously, as you say, you**  
 8 **generally presume he's older, a bit older.**  
 9 Q. Now, I want to ask you what happened that day. But when  
 10 I spoke to you, you would prefer that we put up what you  
 11 said to the police for that day.  
 12 **A. Yes.**  
 13 Q. If we could get that up, please, Ralph, OHY006987\_002.  
 14 If you could highlight the top paragraph for me, please.  
 15 This is a record of what you told the police at the  
 16 time, and we have agreed that I will just go through  
 17 that.  
 18 **A. Yes.**  
 19 Q. You said that you ran away and ended up at a railway  
 20 line. You said that C1 and C3 went down under the  
 21 bridge to do gay things:  
 22 "When they came, C2 was stood holding a fence  
 23 watching a train go past. He states that C1 pulled down  
 24 his pants and put his willy inside his bottom, not just  
 25 between the cheeks but in the hole. He says he told C1

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1 Q. Is it possible that at some point you told C4?  
 2 **A. Yes. Me and C4 actually came from the same background.**  
 3 **We were from the same city, so we became good quite**  
 4 **friends. I think he was probably one of the first to**  
 5 **find out. If I remember rightly, he ended up having**  
 6 **a bit of a kick-off with C1.**  
 7 Q. Yes, so you will have seen the papers. In fact, what  
 8 happens is that C4 accuses C1 of having sex with you,  
 9 and that's overheard by a member of staff.  
 10 **A. Yes.**  
 11 Q. At this point, a member of staff comes to talk to you  
 12 about what happened. Is that right?  
 13 **A. Yes.**  
 14 Q. Do you remember talking to that member of staff?  
 15 **A. No, not at all.**  
 16 Q. I think you remember, I think, talking to someone called  
 17 Sarah?  
 18 **A. Yes.**  
 19 Q. With the marker pen?  
 20 **A. Yes.**  
 21 Q. But you think that's when C1 had left school; is that  
 22 right?  
 23 **A. I think so. Again, I'm not entirely sure. I think**  
 24 **after that sort of happened, everything went a bit all**  
 25 **over.**

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1 to stop and get off but C1 continued. He then said it  
 2 was hurting and managed to pull away from him. He  
 3 states that he did not want C1 to do what he did to him  
 4 and at no stage gave him permission. He states that  
 5 while C1 was inside his bottom, C3 inserted his penis  
 6 inside C1. It was like a 'dirty train'. He stated he  
 7 had never had anal sex before or been involved in sexual  
 8 activity like this."  
 9 Is that what you remember happening?  
 10 **A. Yes.**  
 11 Q. And that is something that you can remember. I think in  
 12 your statement you say you remember being very upset and  
 13 running towards a telephone box?  
 14 **A. Yes.**  
 15 Q. Is that right?  
 16 **A. One of the little -- yeah, the emergency ones on the**  
 17 **side of the railway.**  
 18 Q. You said, I think, in your statement that other sexual  
 19 things had happened before, when you'd absconded?  
 20 **A. Yes.**  
 21 Q. But nothing as bad as this?  
 22 **A. No.**  
 23 Q. Do you remember if you told anyone about this after it  
 24 had happened? Not straight after it happened.  
 25 **A. Not straight after, no.**

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1 Q. Now, it seems that the people that came to talk to you  
 2 asked you a lot of questions about what happened that  
 3 day; is that right?  
 4 **A. Yes.**  
 5 Q. I think you spoke first to two people, to Val and Kath,  
 6 and then to Kath. Is that what you remember?  
 7 **A. To be honest, I'm not entirely sure who it was first.**  
 8 Q. Do you remember at all giving evidence to the police?  
 9 **A. I remember going in for the interview. I think it was**  
 10 **a videoed interview. I remember going in for it.**  
 11 **I remember going in with them and coming out.**  
 12 Q. I think your statement says all you can really remember  
 13 is the cameras; is that right?  
 14 **A. And the little small things that looked like buttons on**  
 15 **the walls jump out at you. As I later found out, they**  
 16 **were microphones. That's pretty much it.**  
 17 Q. Again, you'd probably just turned 10 at the point of  
 18 the police interviews?  
 19 **A. Yes.**  
 20 Q. Do you remember if you were given any support when you  
 21 went to --  
 22 **A. I don't believe so, no. But I'm not sure.**  
 23 Q. Do you think it would have helped if someone had been  
 24 there with you, and who would that person have been?  
 25 **A. To be honest, that was the issue, you've got no-one to**

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1 **trust. I'm not sure whether it would help or not.**  
2 **I don't know.**  
3 Q. Do you remember C1 leaving Appletree?  
4 **A. I think so. I do remember him not being there. I don't**  
5 **remember entirely when he left.**  
6 Q. Were you told anything at all about why he left?  
7 **A. No.**  
8 Q. Was it linked, in your mind, to this?  
9 **A. To be honest, no, because even from the police interview**  
10 **and everything, to me it seemed nothing ever came about**  
11 **of it. Never got spoke to about it. Nothing ever**  
12 **happened. So I don't know.**  
13 Q. That was another of my questions, actually: did anyone  
14 explain to you what the police were doing about any of  
15 this?  
16 **A. No.**  
17 Q. Now I think your solicitor has shown you some of  
18 the paperwork.  
19 **A. Yes.**  
20 Q. And has shown you some of the police decision making.  
21 Ralph, could we get up OHY006987\_003. If you could  
22 highlight the handwritten text at the bottom, please.  
23 I think you've seen this document now.  
24 **A. Yes.**  
25 Q. This is a discussion of what was going to happen as

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1 Q. Do you remember anything changing? Were you given any  
2 help at school after this?  
3 **A. Not as far as I'm aware, no.**  
4 Q. Was there any extra therapy or --  
5 **A. We did have play therapy every so often. We went to --**  
6 **was it NSPCC or CAMHS or one of those kinds of places.**  
7 **But nothing more than usual. It was just standard.**  
8 **You'd go in, play with some toys and leave.**  
9 Q. So there was nothing that was specifically said to be  
10 about this incident and what happened?  
11 **A. No. As far as I'm aware, it was never brought up again**  
12 **until later on, when I first went into foster.**  
13 Q. I want to talk to you a bit about that now, actually.  
14 After you left Appletree, so when you were 10, you went  
15 to live with a foster parent, didn't you?  
16 **A. Yes.**  
17 Q. Can you tell us a little bit about that experience? Was  
18 that a good experience?  
19 **A. It was, for the most part, good. [Redacted], the**  
20 **person, was lovely. She was also very -- I'd say very**  
21 **intuitive. She had a good idea of what was going on**  
22 **without -- sorry, a very good idea of what was going on**  
23 **without going into horrific detail.**  
24 MS BICARREGUI: Could you pause there for a moment, A6. We  
25 are wondering whether we need to cut the feed. We will,

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1 a result of this incident. The penultimate paragraph  
2 is:  
3 "The practical reality is that, in view of (a) their  
4 young ages and damaged backgrounds, nothing they say can  
5 be relied on to the extent demanded by a criminal  
6 court."  
7 It goes on to say that there is not sufficient  
8 public interest.  
9 **A. Yes.**  
10 Q. Can you tell me what you felt when you saw that this was  
11 the decision?  
12 **A. Well, to be honest -- frankly, it's disgusting. You've**  
13 **got a police person who is supposed to have what you**  
14 **would say is an equal view and is supposed to look at**  
15 **both sides, says straight away, without using so much,**  
16 **say, in discrimination, straight away is going, "This is**  
17 **your background, so I'm going to believe nothing you**  
18 **say", which is pretty much the entire consensus that**  
19 **came from the school. It was, "This is your background,**  
20 **so we are not going to believe anything you say". It**  
21 **was pretty much what he said in a small paragraph, as**  
22 **far as I was concerned.**  
23 Q. Nobody at the school explained any of this to you at the  
24 time?  
25 **A. No.**

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1 in fact, cut the feed in case confidential information  
2 has been mentioned. If you wait there a second, A6.  
3 I did just say children, didn't I? But I should  
4 probably have been a bit more careful. That's for your  
5 confidentiality.  
6 Thank you, chair. It is subject to a restriction  
7 order, so I think we can continue.  
8 So not mentioning any names, and I will do the same,  
9 do you remember any -- you probably don't remember, but  
10 I know you've seen some papers. Perhaps you do  
11 remember, A6. You started to tell your foster parent  
12 about the sexual abuse that had happened at Appletree,  
13 didn't you?  
14 **A. Yes.**  
15 Q. We have agreed that we can look at something that you  
16 told her around that time.  
17 **A. Yes.**  
18 Q. Ralph, if we could get up CCC000009\_026. This is  
19 a report of the conversation that you had with your  
20 foster parent. In the first paragraph, if you could  
21 highlight that, please, Ralph, she says that you were  
22 talking about strategies if you were bullied and you  
23 told her about an incident at Appletree where a boy had  
24 done "something bad to him ... I asked if he wanted to  
25 tell me what had happened and he said a boy called C1

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1 had 'bummed' him whilst he had absconded from school.  
 2 He further stated that C1 was a pervert and had 'done'  
 3 nearly everyone in the school."  
 4 **A. Yes.**  
 5 Q. This is a conversation that happened just after you'd  
 6 left; is that right?  
 7 **A. Yes.**  
 8 Q. If you could go on to the next paragraph. We are not  
 9 going to go through this line by line, but you go on to  
 10 describe that bad things had happened at the school, and  
 11 you describe a number of incidents of sexual abuse and  
 12 sexualised behaviour. You talk about C3 -- going into  
 13 C3's room and "found him bumming C5". You mention  
 14 a number of nicknames which a 10-year-old child is  
 15 likely to do, but you say it happened more than once,  
 16 and you also say, which is what you have told us today,  
 17 that you hadn't reported it, because the staff wouldn't  
 18 have believed you. Do you see this? Do you remember  
 19 anything at all about this conversation?  
 20 **A. Bits and bobs, sort of thing. I remember in particular**  
 21 **the foster parent, because I went to stay with her for**  
 22 **a week, when I was first getting to know her outside the**  
 23 **children's home, and I remember telling her a lot about**  
 24 **everything, about the staff, about restraints, about the**  
 25 **incident with C1 and, if I remember rightly, she refused**

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1 your foster parent about this at the time?  
 2 **A. To put it frank, she actually cared. She was one of**  
 3 **the first people who you actually had a connection with,**  
 4 **that actually cared about you, for the child you are,**  
 5 **not for whatever report follows you or for what anyone**  
 6 **else says, makes her own opinion based off you. I think**  
 7 **that's probably what I needed. It worked brilliantly.**  
 8 Q. So you were able to talk to her?  
 9 **A. Yes.**  
 10 Q. And almost straight away, it sounds like, from when you  
 11 were placed with her?  
 12 **A. Yes.**  
 13 Q. There is a further police report that we don't need to  
 14 go to, but it's from March 2008 and September 2008.  
 15 When the police get this report, they think that you are  
 16 talking about the incident on 9 November?  
 17 **A. Yes.**  
 18 Q. Was that what you were talking about when these things  
 19 were raised again, or were you trying to mention other  
 20 incidents where sexual abuse had happened?  
 21 **A. I'm not entirely sure.**  
 22 Q. That's fine. So as well as looking at incidents of  
 23 sexual abuse and where things had gone wrong, the  
 24 inquiry is interested in trying to help. Was it the  
 25 experience of being with a foster parent that was the

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1 **to let us go back. That's when she pulled me out of**  
 2 **the school completely and I believe that's when**  
 3 **everything else started. She essentially got everyone**  
 4 **she could involved. I remember I got an advocate from**  
 5 **NYAS that I saw very early on. I think that's when all**  
 6 **the civil case started and everything else, due to it.**  
 7 Q. Again, we see in the second paragraph there that you are  
 8 telling her that it had happened loads of times?  
 9 **A. Yes.**  
 10 Q. You went on holidays. So that wasn't a planned move?  
 11 **A. No.**  
 12 Q. She decided that you should move immediately; is that  
 13 right?  
 14 **A. Yes.**  
 15 Q. If we could go to the next page, please, Ralph, \_027,  
 16 and if you could bring up the second paragraph. Again,  
 17 she's asking you some questions, and you say you can't  
 18 remember how many times the abuse took place, maybe  
 19 100 times, and she said that seemed like a lot and you  
 20 say, "I don't know, but a lot", and you asked if you  
 21 could go out on your bike. So again, it was something  
 22 that was happening a lot of the time?  
 23 **A. Yes.**  
 24 Q. Why do you think, looking back, again -- you mentioned  
 25 hindsight. Why do you think that you were able to tell

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1 most help for you, do you think?  
 2 **A. Possibly. I mean, again, one of those things, you don't**  
 3 **really know completely, but I'd like to think so, it**  
 4 **was, you know, being in a bit more of a family dynamic,**  
 5 **a bit more actual support. As you says, people looking**  
 6 **at you for actually being you, rather than for, you**  
 7 **know, whatever this report says, whatever that person**  
 8 **says, and, like I said, it works brilliantly. It's one**  
 9 **of those things I'd recommend, that anyone in schools**  
 10 **like that should be in homes, should be in proper**  
 11 **families. It's ten times worse than anything you'll get**  
 12 **in a children's home at least.**  
 13 Q. Is there anything you've not told us that you would like  
 14 to tell us?  
 15 **A. No, not really.**  
 16 MS BICARREGUI: Thank you. That's the end of my questions,  
 17 chair and panel, I don't know if you have any questions?  
 18 THE CHAIR: No, we have no questions, but I would like to  
 19 thank the witness very much for coming here and giving  
 20 us your evidence today. We know how very difficult it  
 21 is to go over these kind of experiences, and we are  
 22 grateful to you and especially for your latter comments  
 23 about what helped. Thank you.  
 24 **A. Thank you.**  
 25 **(The witness withdrew)**

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<p>1 MS BICARREGUI: Chair and panel, it's very early, but                  2 I think because we need to open the room up, we will                  3 take an early break, if that's ...                  4 THE CHAIR: Yes, we will do that.                  5 MS BICARREGUI: Will we come back at 2.55 pm?                  6 THE CHAIR: That's sufficient time.                  7 (2.37 pm)                  8 (A short break)                  9 (2.55 pm)                  10 MS SCOLDING: Chair and panel, we now hear evidence from                  11 Ms Kate Dixon from the Department of Education.                  12 MS KATE DIXON (affirmed)                  13 Examination by MS SCOLDING                  14 MS SCOLDING: Good afternoon, Ms Dixon. Thank you very much                  15 for coming. Just a few introductory remarks. Firstly,                  16 this isn't a test of memory. As your witness statement                  17 is some 237 pages long, one would very much hope it                  18 wasn't. Please feel free to refer to any statement or                  19 any other notes you've prepared.                  20 Secondly, we can stop at any time and for any                  21 reason. Please just indicate to me that that is the                  22 case. Next, there is a paper bundle in front of you                  23 with your witness statement and also some other                  24 documents, and there is also a screen next to you. Any                  25 document I'm going to ask you to comment on should</p> <p style="text-align: center;">Page 149</p>	<p>1 hopefully come up on the screen. As you know, you may                  2 well need to bear with us for a couple of moments.                  3 Lastly, as your statement is 237 pages long, we will                  4 be publishing it in due course, so I won't be taking you                  5 through it line by line.                  6 Chair and panel, I think it is behind tab H/1, but                  7 I'm going to ask if Ms Scholefield might be able to give                  8 you some assistance with where Ms Dixon's witness                  9 statement is to be found if you are having some                  10 difficulties. Because I'm afraid I don't have the                  11 relevant index to hand.                  12 F1 and F2, chair and panel. Sorry, I apologise.                  13 I'm only actually going to be asking you about your                  14 first witness statement, which is DFE002073. Ms Dixon,                  15 now that the chair and panel have sight of that, could                  16 I ask you -- well, could I ask you to turn to the back                  17 page of it, which is page 231.                  18 <b>A. I don't think it is in here. I've got a little insert                  19 that says it might be in another folder. But I have my                  20 witness statement.</b>                  21 Q. You have your witness statement?                  22 <b>A. And I can confirm that I have signed it at the back.</b>                  23 Q. I'm just checking to make sure the chair and panel have                  24 got it. F/2: it is the one, chair and panel, just for                  25 your reference, that's got DFE002073 on the bottom.</p> <p style="text-align: center;">Page 150</p>
<p>1 Is this witness -- so you have seen your witness                  2 statement?                  3 <b>A. Yes.</b>                  4 Q. You have signed it; is that right?                  5 <b>A. That's correct, yes.</b>                  6 Q. Is it true, to the best of your knowledge and belief?                  7 <b>A. Yes, it is.</b>                  8 Q. Thank you very much. Now, there is a lot of material                  9 which we can cover with you. What I am going to try and                  10 do is cover specific issues that deal with special                  11 schools and deal with music schools or which have been                  12 raised in the context of these two weeks, and then                  13 obviously yourself or other individuals from the                  14 Department for Education will be asked to return in                  15 phase 2 to deal with some more general issues or issues                  16 which will be raised there.                  17 Can we turn first to some issues which have been                  18 raised in respect of music schools.                  19 <b>A. Sorry, I have one correction on my witness statement.</b>                  20 Q. Yes, you do. You have paragraph 190 of your witness                  21 statement, and I have it written boldly there and have                  22 manifestly failed to say --                  23 <b>A. As did I.</b>                  24 Q. -- you have a correction to paragraph 190 of your                  25 witness statement. Please could you tell us what that</p> <p style="text-align: center;">Page 151</p>	<p>1 correction should be?                  2 <b>A. Sure, certainly. The witness statement says:</b>                  3 <b>"Current policy is to inspect independent schools                  4 once every three years and once in every six years for                  5 good schools that meet certain criteria."</b>                  6 <b>That was the position until 2015, but, since then,                  7 all independent schools have been inspected every three                  8 years.</b>                  9 Q. Thank you very much. Can I identify, Ms Dixon, you're                  10 the current director of school quality and safeguarding.                  11 Since when have you had that role?                  12 <b>A. I have had that role for two and a bit years, since July                  13 two years ago.</b>                  14 Q. What is your remit and responsibility in respect of                  15 safeguarding within school settings?                  16 <b>A. For the things that I've heard come up in this inquiry                  17 so far, I have responsibility for Keeping Children Safe                  18 in Education, for that guidance, I have responsibility                  19 for the regulation and standards setting for independent                  20 schools, including the independent schools standards and                  21 the national minimum standards, and I have policy                  22 responsibility for inspection, accountability and the                  23 inspectorates, as far as the policy goes.</b>                  24 <b>There are a few other things contained in my                  25 statement, because I brought that together from across</b></p> <p style="text-align: center;">Page 152</p>

1 **the Department for Education.**  
 2 Q. At paragraph 2 of your witness statement, you identify  
 3 that the witness statement is corporate in nature, in  
 4 that you gather information from a number of your  
 5 colleagues and from departmental papers and records?  
 6 **A. Yes, but I'm happy to have a go.**  
 7 Q. So if we can turn now to the first topic, which is the  
 8 Music and Dance scheme, you identify at paragraphs 517  
 9 to 521 -- I'm just going to get that up on the screen.  
 10 I think that's probably the best way forward.  
 11 DFE002073\_120-121. You set out some basic information  
 12 about the Music and Dance scheme. So the Department for  
 13 Education -- if you could get up 517 to 521, please,  
 14 Ralph.  
 15 This scheme, you administer the scheme, but you  
 16 administer it inasmuch as you give the money out; is  
 17 that right?  
 18 **A. That's correct, yes.**  
 19 Q. So that's about -- as you identify at paragraph 518, the  
 20 budget is around £30 million a year; is that right?  
 21 **A. Yes.**  
 22 Q. So that money goes directly, as I understand it, from  
 23 the coffers of the Department for Education to the  
 24 individual schools?  
 25 **A. Yes.**

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1 **things that you consider about quality and finance,**  
 2 **et cetera, are thought about and meet a level.**  
 3 Q. You've heard in particular the witness evidence from A1  
 4 and A2 that we heard last week and, in fact, the  
 5 evidence we heard throughout the week about vocational  
 6 music schools, and I think the same would probably apply  
 7 to vocational schools across the piece. They identify  
 8 some specific difficulties and problems with this sort  
 9 of vocational teaching, particular pressures that  
 10 children have. Have you ever thought about, or has the  
 11 department ever thought about, some code of conduct for  
 12 musicians or peripatetic teachers, given the issues that  
 13 have been raised throughout last week?  
 14 **A. As I understand, the department has thought about**  
 15 **whether there should be something separate, but decided**  
 16 **not. I think, for example, at Chetham's, the one-to-one**  
 17 **tuition obviously was recognised as having greater**  
 18 **opportunities for abuse in that close teaching**  
 19 **relationship, and inappropriate behaviour, so there was**  
 20 **a decision that teaching shouldn't happen in individual**  
 21 **tutor's homes. So there have been some sort of**  
 22 **differences put in place. But not at the standards**  
 23 **level that I have described in the independent school**  
 24 **standards.**  
 25 Q. Do you think that the department should think about

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1 Q. Do you think it's appropriate for that sum of money to  
 2 be spent without there being any oversight or  
 3 supervision of the schools in question to make sure that  
 4 they're meeting basic standards?  
 5 **A. So the music and dance schools are overseen according to**  
 6 **the type of school that they are, so for the music and**  
 7 **dance schools that this inquiry has covered, they're**  
 8 **independent schools, so they're subject to the**  
 9 **independent schools standards, and where they're**  
 10 **residential boarding, they're subject to the national**  
 11 **minimum standards as well.**  
 12 Q. But obviously, in comparison to most independent  
 13 schools, where parents pay, that's largely the case.  
 14 I mean, in residential special schools the situation is  
 15 somewhat different because largely the state pays, but  
 16 if we focus now, in effect, parents aren't paying, or  
 17 largely aren't paying, you; the state, are paying. Do  
 18 you not think that there should be some consideration of  
 19 whether or not further obligations should therefore be  
 20 put on those schools or different sorts of obligations,  
 21 given that it is public money which is particularly  
 22 being spent on this scheme?  
 23 **A. I think that the basis of the independent school**  
 24 **standards and the system that sits behind it is to**  
 25 **ensure that children are safe and that all the other**

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1 undertaking some kind of research into the particular  
 2 dynamics of vocational education? Because we have  
 3 heard, from both Dr Pace and all the school heads who  
 4 identified the issues that you have set out, that the  
 5 power dynamic is somewhat different; there is a career  
 6 dynamic that goes with the power dynamic. The  
 7 relationship has been described as reverent or Svengali,  
 8 overpowering, and the children, themselves, put  
 9 themselves under a lot of pressure, and that's also  
 10 combined with the fact a lot of the instrumental  
 11 teachers are peripatetic, so they're not teachers, they  
 12 don't have a PGCE or they don't work in school on  
 13 a full-time basis. Is that something where the  
 14 department has ever thought about carrying out some  
 15 research about improving standards on that basis?  
 16 **A. I don't know. This is not my particular area of**  
 17 **expertise. But obviously we will listen to both the**  
 18 **evidence given to, and the recommendations of,**  
 19 **the inquiry. So I'm very happy to take that back.**  
 20 Q. I understand that, in fact, some of the musicians'  
 21 unions have identified that there are currently  
 22 voluntary codes of practice for those sorts of teachers.  
 23 Again, do you think that those codes should become  
 24 compulsory for those who want to teach in an  
 25 environment, whether a specialist music school or

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<p>1 a school in general, and would that be something that                  2 the Department for Education would look to enshrine or                  3 support?                  4 <b>A. Again, I don't know the policy position on that, so it                  5 wouldn't be wise for me to say, but I'm very happy to                  6 take that back.</b>                  7 Q. There is just one further issue I wanted to raise with                  8 you, which is, as you identify in paragraph 528 of your                  9 witness statement, if the school considers that                  10 a child's -- now, funding under the scheme can be                  11 withdrawn if there has been misinformation given about                  12 a parent's financial status. However, the school can                  13 withdraw somebody from the scheme if they consider that                  14 they're not really up to the mark, either in terms of                  15 their performance or their attendance. So, in a way,                  16 remaining on the scheme requires you to keep in the good                  17 graces of the school.                  18 Now, I'm just thinking about a situation in                  19 Chetham's. I'm thinking about Chetham's in particular,                  20 but all the other music schools, whereby quite senior                  21 members of staff could use their influence to withdraw                  22 that place if people had spoken up at the time. Has                  23 there been any consideration or would there be any                  24 consideration given to a way in which that kind of power                  25 imbalance couldn't be used for nefarious purposes, that</p> <p style="text-align: center;">Page 157</p>	<p>1 there couldn't be a withdrawal of a place in those                  2 circumstances?                  3 <b>A. Again, I don't know, in the Department of Education, but                  4 I can see the point that you're making.</b>                  5 Q. Can I turn, now, to the nature of international                  6 students. Now, we're using music schools as a proxy,                  7 but this is something which is a particular feature                  8 across most independent boarding establishments, as we                  9 understand it, where there are roughly -- we think on                  10 the whole it is roughly about a third of all boarding                  11 places are now taken by students whose parents live                  12 outside the UK and who would be considered to be from                  13 abroad.                  14 Now, we have had evidence from a number of agencies                  15 about the difficulties there are with educational                  16 guardians or, rather, the lack of registration and                  17 regulation. Does the Department for Education intend to                  18 do anything about the absence of regulation in this                  19 respect?                  20 <b>A. So we have been listening to some of the discussions at                  21 the inquiry, and educational guardians' current policy                  22 position is that they are only included in the national                  23 minimum standards when the school provides them, but we                  24 are going to include a question in our consultation                  25 against the new national minimum standards to ask if</b></p> <p style="text-align: center;">Page 158</p>
<p>1 <b>there should be more, that it should be -- the school                  2 should be looking at where they are provided elsewhere,                  3 not by the school, by parents or others, and whether                  4 there should be more done, more criteria.</b>                  5 Q. Do you not think that there should be some form of                  6 licensing scheme? I mean, on the basis that they're                  7 looking after -- it doesn't matter whether the children                  8 are from here or from anywhere around the world. You                  9 know, we are taking advantage of their money, so to                  10 speak, and we are selling our cultural capital, our soft                  11 power and our educational services, yet, at the moment,                  12 they could fall into the hands of very unscrupulous                  13 people, as we have heard. Do you not think the                  14 department's safeguarding responsibility should extent                  15 to some kind of registration or standardisation scheme                  16 in those circumstances?                  17 <b>A. We will consult in the consultation that will come                  18 shortly.</b>                  19 Q. Do you think that that responsibility should therefore                  20 fall on individual schools or do you think that that                  21 responsibility ultimately should lie with the department                  22 to run a national scheme? Because there are two ways of                  23 running it. You could either say the school has got to                  24 do the checks, but of course the school might not be in                  25 a particularly good position. Or you could set up some</p> <p style="text-align: center;">Page 159</p>	<p>1 kind of national registration scheme for agencies, a bit                  2 like you would do with foster care agencies or other                  3 kinds of nurseries, that sort of thing?                  4 <b>A. We will ask some fairly open questions in our                  5 consultation about whether there should be more and how                  6 they should work.</b>                  7 Q. Do you have any idea, or has the department done any                  8 work about the takeup or whether or not guardians in                  9 fact do register with local authorities by way of                  10 private foster care? Do you maintain any records or                  11 have any data, anecdotal or otherwise about that?                  12 <b>A. I don't know of that. I only know that after -- I think                  13 it is 28 days, it becomes a private fostering                  14 arrangement.</b>                  15 Q. Do you have any form of dialogue with the Home Office?                  16 Because I know, in order to have a sponsor licence -- so                  17 the way, as I understand -- my very imperfect                  18 understanding of how the immigration system works is                  19 that a school is, in effect, a sponsor of someone. They                  20 therefore have an opportunity to give out what are known                  21 as CASs, which are things which enable people to come                  22 into the country. As part of that, however, the                  23 Home Office requires that there's some form of                  24 guardianship arrangement in place, if friends and close                  25 family aren't living there.</p> <p style="text-align: center;">Page 160</p>

1 Has the DfE ever had, or is it proposing to have,  
 2 any kind of dialogue with the Home Office to make sure  
 3 that there's some joined-up thinking about the  
 4 requirements and the registration needs?  
 5 **A. Because international students come on immigration visas**  
 6 **to come to independent schools, it is a crossover in our**  
 7 **policy responsibilities between the DfE and the**  
 8 **Home Office. So if we were proposing to change things**  
 9 **that implicated the Home Office, then, absolutely, we**  
 10 **would be discussing that with them.**  
 11 Q. I suppose I just want to double-check, have you ever had  
 12 such discussions to date, as far as you're aware?  
 13 **A. I haven't personally, no, and I don't know.**  
 14 Q. Do you know if anyone else in the department has?  
 15 **A. I don't know that, no.**  
 16 Q. Can we move now to Independent Listeners.  
 17 **A. Sure.**  
 18 Q. It seems to me there are two strands of this. There's  
 19 what I would call the music school strand of this and  
 20 then the special school strand of it.  
 21 **A. Sure.**  
 22 Q. We have seen national minimum standard 2 as it currently  
 23 exists. It requires an Independent Listener, in the  
 24 case of mainstream boarding, and an independent person,  
 25 at paragraph 2.2, of the particular national minimum

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1 **about beefing up the criteria in that consultation.**  
 2 Q. Because I'm also thinking, the Children's Commissioner  
 3 runs the Help at Hand service, so I understand it's been  
 4 quite successful for looked-after children generally,  
 5 but they say, "We haven't really had much takeup from  
 6 residential schools". Now, I'm not aware, is that not  
 7 something you could look to work with with the  
 8 Children's Commissioner, to try to develop a service for  
 9 children who are living away from home, and by this  
 10 I mean neuro-typical children rather than children with  
 11 special educational needs?  
 12 **A. Yes. Again, I hadn't seen the Children's**  
 13 **Commissioner Report when Dame Christine was talking, but**  
 14 **we will go and look at the recommendations in that**  
 15 **because it looks like some useful stuff we could draw on**  
 16 **there.**  
 17 Q. As far as those with special educational needs, it seems  
 18 to me there are two issues that are raised. Firstly, it  
 19 seems that a listener is not necessarily enough; that  
 20 the current standard which says there should be an  
 21 independent person, that there needs to be more of an  
 22 advocacy service. Is that something that the Department  
 23 for Education have ever thought about?  
 24 **A. So we have thought about advocacy in terms of**  
 25 **looked-after children by the state. I think, again,**

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1 standard. However, there seems to be a lack of sort of  
 2 standardised guidelines. All the standard says is,  
 3 there shall be one. There is not kind of who they are,  
 4 what they do, how often they visit. I think all the  
 5 schools we spoke to last week have kind of said, "Well,  
 6 they're a good idea in the abstract, but, you know, we  
 7 have seen never them, they hardly ever come, children  
 8 don't use them". Can I ask, why was that standard put  
 9 in place and is there any proposal to amend that  
 10 standard to make it more practical for schools and  
 11 children to access?  
 12 **A. Yes. I have also heard the discussions, and there's**  
 13 **some useful things that have come out of them, I think.**  
 14 **So the standard requires that there is a service**  
 15 **available, but you're right, it's not -- there's not**  
 16 **much in the way of criteria about what that might**  
 17 **involve, how often, how frequent, people might come into**  
 18 **the school. Certainly the debate I've heard is about --**  
 19 **in these hearings, has been about how you balance the**  
 20 **independence with knowing who that person is and feeling**  
 21 **trusted, like we particularly heard from the last**  
 22 **witness, how you develop a relationship to be prepared**  
 23 **to talk about some difficult things.**  
 24 **Again, we are going to consult on the national**  
 25 **minimum standards, and we will include some questions**

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1 **there's been a lot of discussion about communications**  
 2 **and advocacy in these hearings, and that's definitely**  
 3 **something that we will take back and reflect.**  
 4 **I think I was trying to get my head around the**  
 5 **difference between a listener and an advocate and them**  
 6 **doing very different things, so trying to come up with**  
 7 **a criteria around how those are different and what sorts**  
 8 **of skills you need in each, and also that if you are**  
 9 **going to advocate for somebody, you probably need to**  
 10 **know them more. Therefore, the listening -- what**  
 11 **I understand is the listening service probably doesn't**  
 12 **do the job for that.**  
 13 Q. It would seem to me that -- I mean, you could have just  
 14 advocacy for everyone.  
 15 **A. Yes.**  
 16 Q. But if you are going to have a listening service, that's  
 17 more of a telephone call from someone who people know  
 18 well enough to know they could go and talk to. Whereas  
 19 an advocacy service is really about having somebody  
 20 there who knows the person intimately?  
 21 **A. Indeed.**  
 22 Q. Particularly, Ms Dixon, as we identified, Dame Christine  
 23 identified, those four groups of people which is largely  
 24 who we are talking about, who have very complex  
 25 communication needs?

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<p>1 <b>A. And we have heard from other witnesses about how,</b>                  2 <b>actually, the belief is children are communicating all</b>                  3 <b>the time. It is about people understanding them well</b>                  4 <b>enough to understand what they are trying to communicate</b>                  5 <b>and how they are trying to communicate, and you couldn't</b>                  6 <b>get that from the end of a telephone, I think.</b>                  7 Q. I think most of them might not be able to use the                  8 telephone in any sort of effective manner.                  9 <b>A. Indeed.</b>                  10 Q. But as well, as far as the sort of advocacy side of it                  11 is concerned, isn't it also important to have somebody                  12 independent looking in? Dame Christine talked about the                  13 relative isolation of a number of these students, that                  14 unlike what I would call neuro-typical boarding pupils,                  15 they might not get very many visits from parents, they                  16 might not get any visits, we have heard, from local                  17 authorities. Do you think that not having somebody who                  18 comes in regularly and can see what's going on on the                  19 ground would be useful?                  20 <b>A. Yes, I think Dame Christine spoke very powerfully about</b>                  21 <b>particularly isolated communities in isolated locations</b>                  22 <b>and the need to balance that independence with somebody</b>                  23 <b>who understood and knew the children.</b>                  24 Q. Can I identify as well, I mean, there is a system that                  25 currently operates within children's homes, as</p> <p style="text-align: center;">Page 165</p>	<p>1 I understand it, whereby there are people called                  2 Regulation 44 Visitors where there are monthly visits.                  3 Would it not be possible for the Department for                  4 Education simply to expand that scheme, provided there                  5 is appropriate training and enforcement in place, so                  6 that those individuals could perform either both roles                  7 or an extended role? So you already have a system up                  8 and running.                  9 <b>A. Yes, we should certainly look at that. Again, another</b>                  10 <b>theme that's coming out is -- you will probably ask me</b>                  11 <b>some questions about this later -- how close are the</b>                  12 <b>very special schools at the, you know, 52, 295 days'</b>                  13 <b>residence a year, how close are they to children's homes</b>                  14 <b>and why have we drawn the line there? Is it the right</b>                  15 <b>place?</b>                  16 Q. The other issue that often gets raised -- Ralph, would                  17 you mind getting up DFE001510_019. This is standard 20                  18 of the Residential Special Schools Standards. So this                  19 is monitoring by independent visitors. I'm not entirely                  20 clear about this because it says monitoring by                  21 independent visitors. But then, who is meant to visit                  22 seems to me to be the governing body, trustees or                  23 a representative who is independent of the school. So,                  24 in fact, it seems to me to be an independent visitor if                  25 nobody from one of the bodies above. Am I right or have</p> <p style="text-align: center;">Page 166</p>
<p>1 I misread the context of that sentence? I thought it                  2 meant, in fact, somebody from the governing body, but                  3 only if somebody from the governing body isn't                  4 available, because of the use of the word "or". Can you                  5 help me at all with that?                  6 <b>A. It is a good question. I think you can probably read it</b>                  7 <b>either way. But if it is not clear, then that's</b>                  8 <b>something we should look at in the consultation.</b>                  9 Q. So what is meant to be happening? Are these meant to be                  10 people who are independent of the management of                  11 the school? Because I wouldn't see governing bodies and                  12 trustees as independent of the management of the school?                  13 <b>A. I don't know what was meant when it was drafted.</b>                  14 <b>I guess there is an argument either way for a governing</b>                  15 <b>body being independent or not. They're not in the</b>                  16 <b>executive management of the school, but in terms of some</b>                  17 <b>of the themes that have been discussed in this inquiry,</b>                  18 <b>they are clearly -- if you are looking at the culture of</b>                  19 <b>the school, they are most likely to be seen and</b>                  20 <b>following that culture, so in terms of independence.</b>                  21 Q. I'm also thinking about the fact that the entirety of                  22 part 2 of Keeping Children Safe in Education says "The                  23 governing body, the trustees, shall be responsible for                  24 the ultimate scrutiny of safeguarding". So I'm                  25 thinking, from that perspective, they are not</p> <p style="text-align: center;">Page 167</p>	<p>1 independent, as they should have been the authors of                  2 the policies which they are then going to look at. Do                  3 you think it would be worthwhile, either in tandem with                  4 the Reg 44 visitors or instead of that, do you have                  5 unannounced visits, rather than five people who are                  6 completely independent of the school six times a year?                  7 So alongside inspection. Because you are looking at                  8 slightly different things?                  9 <b>A. Yes, that was what was going through my head. There is</b>                  10 <b>a question about what's picked up on inspection and</b>                  11 <b>whether that's enough. Again, that's another theme,</b>                  12 <b>whether the inspection regime is right, that's coming</b>                  13 <b>out. So I guess, looking at those two things in</b>                  14 <b>parallel and looking at the timeliness of both of those</b>                  15 <b>things, given that the inspections are --</b>                  16 Q. I'm just thinking, a school is going to be inspected --                  17 if it is a residential special school, it will be                  18 inspected annually?                  19 <b>A. Yes, that's what was going through my head too.</b>                  20 Q. But this is six times a year. So in terms of getting                  21 under what's actually going on at a school, visiting                  22 once a year for a couple of days isn't really going to                  23 tell you what's actually going on, but visiting six                  24 times a year for a day at a time might give you more of                  25 a sense of where something is going, I'm assuming?</p> <p style="text-align: center;">Page 168</p>

<p>1 <b>A. Yes, I think that's absolutely fair, and particularly</b>                  2 <b>depending on what the inspection is looking for. So if</b>                  3 <b>it is an emergency inspection, it will have in fact got</b>                  4 <b>a key line of enquiry, it might be looking at that, but</b>                  5 <b>this -- your proposal would be much more specific and</b>                  6 <b>much more regular.</b></p> <p>7 Q. I'm just thinking for residential special schools                  8 because the complexity and vulnerability of the children                  9 is so acute that you're looking at needing to keep them                  10 what I would call "super safe" all the time, because                  11 they don't, as we have heard from A6 this afternoon,                  12 have anyone they can necessarily talk to within the                  13 institution.</p> <p>14 Can we move on to national minimum standards.                  15 I think you listened to the evidence of Dame Christine?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. This has also been recommended by the Children's                  18 Commissioner in 2014?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Ms Povey obviously and Mr Robinson were both firmly in                  21 agreement. Given we are talking about 4,500 children,                  22 most of whom are extremely vulnerable, have got very                  23 challenging behaviour, limited communication,                  24 significant social difficulties, why is it that they                  25 have any different -- why is it that you only have</p> <p style="text-align: center;">Page 169</p>	<p>1 minimum standards for them but quality standards for                  2 children who are looked after in children's homes?</p> <p>3 <b>A. So I guess looking -- I don't know the history. At some</b>                  4 <b>point, a line was drawn, as I said. I think, looking</b>                  5 <b>forward, about the comments that people have made about</b>                  6 <b>whether we should move to something that is more akin to</b>                  7 <b>the quality standards, I think it is probably worth</b>                  8 <b>explaining a short term versus a long-term option, those</b>                  9 <b>that are available to us. So the way that the</b>                  10 <b>legislation is set up for the national minimum standards</b>                  11 <b>is that the -- the fact that there is national minimum</b>                  12 <b>standards is set out in primary legislation, and then --</b></p> <p>13 Q. Is that the Education Act 2002 or is that set out in one                  14 of the Care Acts?</p> <p>15 <b>A. I would have thought it was the Education Act 2002.</b>                  16 <b>I think that's when they came --</b></p> <p>17 Q. That's when they came in, yes.</p> <p>18 <b>A. Heads are being shook, so I think that's incorrect. We</b>                  19 <b>can write to you on that, if you like.</b></p> <p>20 <b>It is set out that they do exist in primary and then</b>                  21 <b>we write the national minimum standards. Again, I have</b>                  22 <b>heard the debate about -- you know, the clue is in the</b>                  23 <b>name and perhaps it is not a very good name, so</b>                  24 <b>I presume the legislation specifies national minimum</b>                  25 <b>standards but that doesn't mean to say we couldn't then</b></p> <p style="text-align: center;">Page 170</p>
<p>1 <b>call the guidance something different and refer to them.</b>                  2 <b>The debate I have heard resonates very clearly and we</b>                  3 <b>have already started working on our consultation</b>                  4 <b>document and in response to Dame Christine's short</b>                  5 <b>notice, we have been working on it and with her for</b>                  6 <b>a little while. Actually, it may be that more things</b>                  7 <b>come out of the discussion in this inquiry than we might</b>                  8 <b>want to put in, and already things have come out of</b>                  9 <b>week 1 that we have wanted to change things in that.</b></p> <p>10 <b>The discussion has been about floor versus quality</b>                  11 <b>and that is achievable, not in regulations but in the</b>                  12 <b>national minimum standards. That's different from, for</b>                  13 <b>example, the independent school standards, which are</b>                  14 <b>the -- the provision for them is set out in primary but</b>                  15 <b>the standards are actually done in regulations and the</b>                  16 <b>same for the children's homes. The actual quality</b>                  17 <b>standards are set out in legislation.</b></p> <p>18 <b>What I'm trying to explain is, it is not quite</b>                  19 <b>exactly the same system, but I guess there are two</b>                  20 <b>options available to us. One is that we change the</b>                  21 <b>primary legislation for the national minimum standards,</b>                  22 <b>which could take a long time, but in terms of the effect</b>                  23 <b>of them being quality and not just floor, that is</b>                  24 <b>achievable within the consultation that we are proposing</b>                  25 <b>and, indeed, redrafting various bits in response to</b></p> <p style="text-align: center;">Page 171</p>	<p>1 <b>things we have heard.</b></p> <p>2 Q. What I understood from your witness statement, which                  3 I think you have just confirmed, is that you're                  4 proposing to change the standards to make them a bit                  5 more like quality standards, but you can't change the                  6 name without altering primary legislation, which, are                  7 you saying, given the current legislative timetable, it                  8 is highly unlikely that that would happen, at least in                  9 the next session of parliament?</p> <p>10 <b>A. Yes, that's correct.</b></p> <p>11 Q. Even though it would be quite a straightforward --                  12 I suspect it wouldn't be something that would be the                  13 subject of much opposition or debate?</p> <p>14 <b>A. We are being told for primary legislation there is just</b>                  15 <b>no time. So it is not to say that we couldn't aspire to</b>                  16 <b>do that in the future and indeed if the inquiry</b>                  17 <b>recommended that that's something we would take very</b>                  18 <b>seriously. But we feel we can change what I think</b>                  19 <b>people are asking us to do, in terms of the aspiration</b>                  20 <b>and description of what is "good" and "great" rather</b>                  21 <b>than just what is enough.</b></p> <p>22 Q. But also what Dame Christine said is it is not just                  23 about that, it is also about context and outcomes. So                  24 enabling Ofsted or inspectors, or whoever it is you have                  25 go in, to sit there and say, "Look, they might have the</p> <p style="text-align: center;">Page 172</p>

1 ceilings and the lights and all the staff, but this  
 2 isn't a warm place for children, this isn't a good place  
 3 for children. This isn't a place where children's  
 4 outcomes are better". Is that something that you have  
 5 thought about?  
 6 **A. Yes, in the sort of history of the national minimum**  
 7 **standards. So our first version of them in 2002,**  
 8 **I think, was very descriptive, prescriptive processy.**  
 9 **Then --**  
 10 Q. Yes, there were sort of 65 pages of them?  
 11 **A. Indeed. They were significantly slimmed down. I think**  
 12 **what we are hearing is, actually, neither of those were**  
 13 **quite right. Actually, there needs to be quite a lot**  
 14 **more aspiration and the term "quality" is important and**  
 15 **it would enable the inspectorates -- although we have**  
 16 **recently discussed this with the inspectorates and**  
 17 **I think, actually, we both had a slightly different**  
 18 **interpretation of how the current set could be used, but**  
 19 **actually being able to -- for the inspectorates to go in**  
 20 **and be able to say, "Well, actually, these are the**  
 21 **outcomes and this is where you could be pushing towards,**  
 22 **it is not just about this floor standard".**  
 23 Q. So at the moment the inspections have tended to focus  
 24 a bit more on the floor standard rather than the pushing  
 25 children to have better outcomes?

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1 but I'm not sure there is a definition in the  
 2 legislation of what an independent special school is.  
 3 There is a definition of what a special school is.  
 4 I can't remember what it is in the Children and Families  
 5 Act but I can tell you what it used to be in the  
 6 Education Act 1996. But there is a definition of  
 7 a special school, but there is no definition of  
 8 independent special school. One of the issues we will  
 9 come up against when we look at the issue of  
 10 Stanbridge Earls is there was some confusion about  
 11 whether or not they fell within the special school  
 12 regime or not or whether or not they were just  
 13 independent schools, so they were inspected by ISI and  
 14 inspected by Ofsted.  
 15 **A. Okay.**  
 16 Q. Is that something which is a particular problem or is  
 17 that just something that we have hit upon which is  
 18 idiosyncratic and not representative of the system as  
 19 a whole?  
 20 **A. I'm afraid I don't know.**  
 21 Q. Can I also ask about -- you have talked about knocking  
 22 one against the other but needing to think about the  
 23 other schools?  
 24 **A. Yes.**  
 25 Q. I think I can probably understand why, if you had 20,000

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1 **A. I think, yes, I guess by their very nature and name it**  
 2 **was a bar that you needed to have met rather than**  
 3 **something that you could aspire to.**  
 4 Q. I suppose the other issue is, do you need them at all,  
 5 or could you just incorporate or ensure that all  
 6 residential special schools became registered as  
 7 children's homes?  
 8 **A. Well, I think coming back to the answer I gave**  
 9 **previously, there was a line drawn because there's**  
 10 **a very wide spectrum of special schools, and it was**  
 11 **chosen to be drawn at that particular point.**  
 12 Q. So I think, is it 290 or --  
 13 **A. 295 days, I think it is. But, you know, what we have**  
 14 **heard is, actually, where that top end of special**  
 15 **schools meets children's homes, actually, people are**  
 16 **feeling like -- you know, questioning why there's a gap**  
 17 **and whether there's more that can be either done to**  
 18 **bring those two systems together or to replicate or**  
 19 **learn from, and I guess the question that we need to**  
 20 **look at is, if you change that end, what are you doing**  
 21 **to the other end of special schools that are more like**  
 22 **mainstream schools? You know, are you changing the**  
 23 **criteria that they need to work towards? Is that**  
 24 **appropriate?**  
 25 Q. But is there a -- I mean, I might be wrong about this,

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1 or 30,000 students of whom maybe 15,000 were at what  
 2 used to be known as specific learning difficulties  
 3 schools, so dyslexia schools, but you're now looking at  
 4 a massive shrinkage in this sector and the sector almost  
 5 exclusively taking, you know, bar maybe 400 children or  
 6 so, very much more complicated children, and the sorts  
 7 of children who would be looked after in lots of other  
 8 settings.  
 9 **A. That's a very good question and a good reflection, and**  
 10 **I guess fits with the policy and aims of trying to**  
 11 **ensure that mainstream schools do as much as they**  
 12 **possibly can for special educational needs children.**  
 13 **So, yes, it is a good question, and we review the**  
 14 **standards that we have in response to events and in**  
 15 **response to contexts, so a fair challenge --**  
 16 Q. I might ask you, if I have time this afternoon, or, if  
 17 not, then on Friday morning, about the regulation  
 18 between Ofsted, the ISI and yourself as the ultimate  
 19 regulator, but I will come back to that later.  
 20 Can we now turn to governance and management. It is  
 21 an issue which applies both to music schools and to  
 22 special schools. There are a number of responsibilities  
 23 which there are on governors. Ralph, would you mind  
 24 getting up DFE001862\_016, please. This is part 2, the  
 25 management of safeguarding. I note that -- I'm only

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<p>1 going to take everybody through the first page, but this                  2 goes on for several pages. It says:                  3 "Governing bodies and proprietors.                  4 "Governing bodies and proprietors must ensure ...                  5 should have a senior board level lead to take leadership                  6 responsibilities". Governing bodies should ensure ..."                  7 I can also tell you it also says "governing bodies                  8 should" at 57, 66, 70, 76, 81, 83, 84, 85, 89, 92, 95                  9 and 96. Throughout it, it says "governing bodies and                  10 proprietors" so the ultimate buck stops with them,                  11 certainly in the context of -- well, in fact, of all                  12 schools. They will all have one or the other. However,                  13 given this, there is no responsibility or requirement                  14 for any governing body to undertake any kind of minimum                  15 training; is that right?                  16 <b>A. Yes, that's correct. So governing bodies, as you say,</b>                  17 <b>the buck stops with the governing body and they must</b>                  18 <b>have a senior board level responsible person for</b>                  19 <b>safeguarding. But the expertise sits with the</b>                  20 <b>designated safeguarding lead, which is in the executive</b>                  21 <b>function.</b>                  22 Q. But how can a governing body scrutinise the executive                  23 lead of the designated safeguarding lead, who should be                  24 a member of senior management, if they don't have any                  25 understanding or training of safer recruitment or of</p> <p style="text-align: center;">Page 177</p>	<p>1 safeguarding?                  2 <b>A. Well, we don't mandate governor training. That's not to</b>                  3 <b>say it doesn't happen.</b>                  4 Q. No.                  5 <b>A. Indeed, people who are sitting on governing bodies are</b>                  6 <b>recruited with expertise in asking challenging questions</b>                  7 <b>of things. I take your point about safeguarding</b>                  8 <b>training might help them ask the more specific</b>                  9 <b>questions. I guess the other contextual thing is that</b>                  10 <b>governors are volunteers. So I guess it's about</b>                  11 <b>weighing up, you know having a sufficient number of, and</b>                  12 <b>willing, people who are prepared to do that role against</b>                  13 <b>the time and ask of doing particular training.</b>                  14 Q. If I could break it down, particularly in respect of                  15 boarding schools, where the responsibilities for                  16 children's welfare is much more encompassing. That                  17 doesn't mean to say that there's not onerous                  18 responsibilities on day schools. But particularly                  19 thinking, in the context of the boarding sector, whether                  20 or not there should be some kind of minimum statutory                  21 requirement. I mean, if I were to volunteer to --                  22 I don't know, I mean, if I were to volunteer to go on                  23 the scout trip, I would need to have a DBS check.                  24 That's a requirement. But I wouldn't think anything of                  25 that. If I wanted to be a St John's ambulance person,</p> <p style="text-align: center;">Page 178</p>
<p>1 I couldn't do that without having undergone a course.                  2 So I don't really see, if people want the responsibility                  3 of volunteering, why they wouldn't be willing to undergo                  4 a measure of training in order to make sure that their                  5 roles were more effective?                  6 <b>A. I guess they are DBSed, and you'll ask me about that</b>                  7 <b>later in the week.</b>                  8 Q. On Friday, we will have the joys of the vetting and                  9 barring system, so let's keep everybody on the edge of                  10 their seats for that?                  11 <b>A. No problem. I've forgotten exactly what your question</b>                  12 <b>was, but I know what you're driving at. I think we</b>                  13 <b>still are not overwhelmed with people wanting to</b>                  14 <b>volunteer in all of the school system. However, we</b>                  15 <b>review our Keeping Children Safe in Education guidance</b>                  16 <b>annually. We tend to do a small review, which we have</b>                  17 <b>done for this September, versus a larger review, which</b>                  18 <b>will be for next September, so I'm very happy to take</b>                  19 <b>that and any further discussions into account.</b>                  20 Q. I'm thinking, in particular, both the State Governors'                  21 Association, who have given us evidence, and the                  22 Association of Governing Bodies in Independent Schools,                  23 have both said that they would welcome such a duty being                  24 imposed. I'm thinking the very people you're trying to                  25 protect are saying, "Please can we have some?"</p> <p style="text-align: center;">Page 179</p>	<p>1 At the very least, even if all governing bodies                  2 didn't have some, couldn't you have -- as I understand                  3 it, maintained schools have to have somebody who has                  4 undertaken Safer Recruitment training. They have to                  5 have a governor who has undertaken that for the purposes                  6 of appointing the head teacher under the relevant                  7 regulations. That isn't the same in the independent                  8 sector, as I understand it. Shouldn't there, at the                  9 very least, be parity of requirement between the                  10 maintained sector and the academy and independent sector                  11 as far as having some knowledge and understanding of                  12 Safer Recruitment practices?                  13 <b>A. I'm very happy to take that away.</b>                  14 Q. Can we turn now to something that Ofsted has raised,                  15 which is notification of serious incidents. I think we                  16 will hear some more from Ms Humphreys and from                  17 Ms Spielman on Thursday, but they identify that they                  18 would like to see a return to the situation where all                  19 serious incidents, which, for these purposes, would                  20 include serious sexual abuse, would be reported to them                  21 and to you. You deal with this in paragraph 503 of your                  22 witness statement. Ralph, would you mind getting up                  23 DFE002073_117.                  24 This was the standard as it was. It said that the                  25 various people had to be notified, the National Care</p> <p style="text-align: center;">Page 180</p>

<p>1 Standards Committee, the local Social Services                  2 Department, the placing authority and the LEA. If there                  3 was the death of a child, inappropriate conduct, serious                  4 harm, serious illness, outbreak of any notifiable                  5 infectious disease. And at 504, you say, as                  6 a regulator, the utility of the receipt of notifications                  7 such as these is not straightforward. The fact that an                  8 incident has occurred doesn't give us an idea of how the                  9 school handled it and whether or not this adds to                  10 inspections.                  11 I'd just like to unpack your view that it shouldn't                  12 be brought back in a little bit of detail on the basis                  13 of some of the examples we have seen.                  14 If you think about the example we had last week from                  15 Chetham's, it was just by chance that Ms Coley knew that                  16 there had been notifications of the LADO. So in those                  17 circumstances, isn't the fact that schools might not                  18 identify things or might tell things, that isn't really                  19 an answer to the serious notification, because they                  20 might not tell the inspectors when the inspectors come                  21 in?                  22 <b>A. No, I heard that too. I don't think our view is that it</b>                  23 <b>shouldn't be brought back. I think our view was that,</b>                  24 <b>under the consultation we ran in 2012, it was</b>                  25 <b>everybody's -- or the overwhelming view that actually it</b></p> <p style="text-align: center;">Page 181</p>	<p>1 <b>should be removed. However, I'm hearing, you know,</b>                  2 <b>people asking for it to come back again.</b>                  3 Q. I can understand you might not want the number of people                  4 that had to be told that there would be either Ofsted,                  5 an inspection service or a regulator should be the ones                  6 who should provide the information?                  7 <b>A. Yes.</b>                  8 Q. I'm also thinking about this because, at the moment, the                  9 local authority designated officer is under no                  10 requirement to provide the inspectorates with                  11 information prior to an inspection. That's right, isn't                  12 it?                  13 <b>A. I think they're under no requirement to provide them as</b>                  14 <b>and when, but as part of the inspection, the</b>                  15 <b>inspectorates always ask for that information. So</b>                  16 <b>I guess -- I'm not sure, are you asking what happens if</b>                  17 <b>they don't provide it or should they provide it as it</b>                  18 <b>happens?</b>                  19 Q. I suppose the question is, there are a number of ways                  20 that you could possibly skin this cat, which is, you                  21 could either refer back to 2011 and say that the school                  22 has responsibility, and you could argue that the                  23 responsibility should always remain with the school                  24 because there may well be circumstances which don't get                  25 referred to a LADO but which you would still want to</p> <p style="text-align: center;">Page 182</p>
<p>1 know about?                  2 <b>A. Yes.</b>                  3 Q. For example, the LADO wouldn't be involved in                  4 communicable diseases, but you might want to know if                  5 there was a swine flu outbreak or something like that                  6 within the context of the school.                  7 However, another way to do it might be to say that                  8 the LADO is under a compulsory responsibility to pass                  9 notifications on a six-monthly or an annual basis or an                  10 as-and-when basis to the inspectorate so you don't get                  11 the situation which the ISI has described where they say                  12 less than 50 per cent of LADOs respond to their                  13 inspections?                  14 <b>A. Yes, or I guess -- well, I guess there are two other</b>                  15 <b>alternatives. One, that they have to provide it when</b>                  16 <b>asked for it for inspections --</b>                  17 Q. Yes.                  18 <b>A. -- which, again, would work. I guess the other bit that</b>                  19 <b>this links into is the duty of candour point --</b>                  20 Q. Yes.                  21 <b>A. -- which, no doubt, you will ask me about too.</b>                  22 Q. Maybe let's come on to this. I mean, maybe, again, this                  23 is something which, in terms of the LADO being                  24 compulsorily required to report, that could be something                  25 which could apply simply to the boarding sector,</p> <p style="text-align: center;">Page 183</p>	<p>1 because, again, there are particular vulnerabilities                  2 which apply to that which -- I mean, if you are looking                  3 at 15,500 schools, one is saying one thing, but in terms                  4 of you're probably only looking at, I don't know, 3,000                  5 schools maximum when you're dealing with the entirety of                  6 the independent school sector including the residential                  7 special school sector, so it is a much smaller burden                  8 upon a LADO than it would be if it were every single                  9 school?                  10 <b>A. It is a good question and, in trying to solve these</b>                  11 <b>problems, there's balancing out the proportionality</b>                  12 <b>thing so it is a good way of thinking about it.</b>                  13 <b>I guess, a reflection on the way the national minimum</b>                  14 <b>standards have been drafted so far and thinking about</b>                  15 <b>the requirements and the duty of candour in there is we</b>                  16 <b>have, as much as possible, tried to reflect other</b>                  17 <b>existing guidance. So a number of people -- and you</b>                  18 <b>have asked people about standard 11, the child</b>                  19 <b>protection one, being quite light on words, which indeed</b>                  20 <b>it is when you read it, but what it is referring to is</b>                  21 <b>two substantial documents, Working Together and Keeping</b>                  22 <b>Children Safe, which we have tried to standardise for</b>                  23 <b>the entire sector.</b>                  24 <b>So, as you say, there are many different ways to</b>                  25 <b>skin the cat. I think I have been hearing what the gaps</b></p> <p style="text-align: center;">Page 184</p>

1 **are. There are a variety of ways in which they could be**  
 2 **solved, so thinking about those.**  
 3 Q. The downside to having the LADO report is, for example,  
 4 we are going to talk to Ms Spielman and Ms Humphreys  
 5 about the situation involving a school called  
 6 Chelfham Mill where one of the problems was the LADO  
 7 wasn't seen to be very effective and wasn't dealing with  
 8 things and saying, "These are serious problems". So the  
 9 notification directly to the inspectorate would probably  
 10 have alerted them significantly earlier than they were  
 11 that there were some significant problems at this school  
 12 with safeguarding and child welfare. Isn't that right?  
 13 **A. Yes, I guess we have heard from various people you can**  
 14 **design a system, but it's sometimes -- it comes down to**  
 15 **people and how good they are at their jobs.**  
 16 Q. The other issue that gets raised with Chelfham Mill  
 17 picks up on one of the points I raised earlier which is  
 18 about the different inspection regimes, because  
 19 Chelfham Mill was a children's home and a school, so  
 20 Ofsted would go in and inspect the school side of it,  
 21 but Ofsted would also go in and inspect the residential  
 22 children's home side of it and reach different  
 23 conclusions about welfare and safeguarding, depending on  
 24 the standards?  
 25 **A. Yes, I guess, also, Ofsted regulate social care as well,**

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1 secondary legislation?  
 2 **A. If we put it in KCSIE, that guidance is statutory**  
 3 **guidance.**  
 4 Q. I know, at the beginning of it, it says it must be  
 5 followed?  
 6 **A. Yes.**  
 7 Q. But that's only if it says "must", as I understand it.  
 8 Unless there were exceptional reasons to say otherwise?  
 9 **A. That's correct. With that caveat of that last bit. The**  
 10 **expectation is that it should be followed unless there**  
 11 **is a very good reason not to do so.**  
 12 Q. I know that, you know, as a lawyer, there's hours' worth  
 13 of amusement or otherwise about what that exactly means.  
 14 Would it not be easier just to do "must", a bit like  
 15 they have within the admissions code and the exclusion  
 16 code, it now just says, you must do this, you mustn't do  
 17 that?  
 18 **A. We can certainly look at that. We are doing quite**  
 19 **a major revision to it for next September. We can look**  
 20 **at the wording there, no problem.**  
 21 Q. Keeping Children Safe in Education, we have heard  
 22 a number of views about its utility.  
 23 **A. Yes.**  
 24 Q. I'm going to sort of try to grab them together?  
 25 **A. Sure.**

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1 **inspect social care, don't they?**  
 2 Q. Yes.  
 3 **A. Again, thinking about their leverage over the LADO in**  
 4 **that respect, perhaps it's too far a lever, you go**  
 5 **through various different people. But I guess you're**  
 6 **thinking about things in the round. Yes, it is**  
 7 **important.**  
 8 Q. I think, ultimately, in phase 2 we might want to come  
 9 back to you and ask about how many inspectorates there  
 10 need to be and the ISI and Ofsted. But I'm not going to  
 11 deal with those in particular now because I think they  
 12 are broader questions which are raised by the sector as  
 13 a whole.  
 14 I am going to ask you about the duty of candour. Is  
 15 that something you have thought about? It is something  
 16 all NHS bodies have to comply with following the  
 17 Mid Staffordshire public inquiry. Is it something you  
 18 think should apply to those who teach in schools or  
 19 those who have, at the very least, senior management  
 20 responsibility?  
 21 **A. So we have already started thinking about that in the**  
 22 **context of both the national minimum standard and KCSIE,**  
 23 **Keeping Children Safe in Education.**  
 24 Q. Is that something that you could introduce by way of  
 25 statutory guidance or would that require primary or

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1 Q. The people we have heard oral evidence from, from the  
 2 special schools largely, say there isn't enough about  
 3 special schools and children with disabilities, and  
 4 that's Keeping Children Safe in Education, the sex and  
 5 relationship guidance, and Working Together to Safeguard  
 6 Children, and sexual harassment and bullying, which are  
 7 the four major pieces of guidance which deal with sex  
 8 and sexual abuse?  
 9 **A. Yes.**  
 10 Q. Do you agree that that's fair comment?  
 11 **A. I think it's a very difficult one to weigh up. So**  
 12 **obviously, what we are trying to achieve is a piece of**  
 13 **guidance that gives sufficient hooks, ideas, levers,**  
 14 **asks to the sector without making people not think, and**  
 15 **not be able to tailor that to the specific circumstances**  
 16 **of the school and the pupils. So there is always**  
 17 **a trade-off of how much detail do you put in there**  
 18 **versus what do you leave for the school who, in our**  
 19 **policy for an autonomous school system, our belief is**  
 20 **that the schools know their pupils the best.**  
 21 **We have been through various cycles of them being**  
 22 **long and detailed to being very thin and we are probably**  
 23 **in the sort of middle ground at the moment. I guess we**  
 24 **are frequently lobbied by specific areas wanting more**  
 25 **for their thing, and I can totally understand that.**

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<p>1 <b>I guess something that Dame Christine said that</b>                  2 <b>I thought was very powerful in this space was that she</b>                  3 <b>felt that what she was looking for was something</b>                  4 <b>sufficient to give people more confidence to treat the</b>                  5 <b>sectors the same, or some sort of words to that effect.</b>                  6 Q. I think --                  7 <b>A. So I don't -- again, you know, we should take that back</b>                  8 <b>and think about what's the best way of doing it, but</b>                  9 <b>that sort of made me think, well, actually, is it a few</b>                  10 <b>more things in the -- a couple more paragraphs or</b>                  11 <b>a couple more lines that recognise that those issues</b>                  12 <b>within the current versions of the document rather than</b>                  13 <b>the argument for a separate document, and the two</b>                  14 <b>witnesses before lunch, the chap sat on the fence,</b>                  15 <b>didn't he? Mr Robinson sat on the fence in the end,</b>                  16 <b>I think, because he was also trying to weigh up those</b>                  17 <b>different things.</b>                  18 Q. I'd like to take you briefly to what it currently says                  19 in Keeping Children Safe in Education at paragraph 107.                  20 So this is DFE001862_027, please, Ralph.                  21 This was the passage that I asked Ms Povey and                  22 Mr Robinson to look at just before lunch. So at the                  23 moment, in the main body of Keeping Children Safe in                  24 Education, we have this. I suppose what -- I mean,                  25 I have to say, if I was reading this, I would not really</p> <p style="text-align: center;">Page 189</p>	<p>1 know what it was I was meant to do. Am I meant to do                  2 the same thing, something different? I can understand                  3 the need for harmonisation, but, on the other hand, you                  4 are dealing with children who, as Ms Povey and                  5 Mr Robinson and Dame Christine so eloquently set out                  6 earlier, have got some very significant additional                  7 challenges in terms of the way that they behave. Do you                  8 think that that's enough?                  9 <b>A. Well, I think it comes down to what else is being</b>                  10 <b>offered in the school, what other expertise is within</b>                  11 <b>the school, and, as I set out in the autonomous school</b>                  12 <b>system, actually, schools are closest to their pupils to</b>                  13 <b>be able to tailor things. Actually, what this is trying</b>                  14 <b>to do is give some headlines about the things to think</b>                  15 <b>about. You know, we can certainly take away whether</b>                  16 <b>this should be added to. But I think the question of</b>                  17 <b>should it be added to loads does probably come into a --</b>                  18 <b>actually, if you put loads more in Keeping Children Safe</b>                  19 <b>in Education, it would be an enormous document. If</b>                  20 <b>actually the consensus is that there should be loads</b>                  21 <b>somewhere, it may not be within the main body of that</b>                  22 <b>document. So, for example, we have added to Keeping</b>                  23 <b>Children Safe in Education on peer-on-peer sexual abuse</b>                  24 <b>recently. That was a new topic. We did that as a very</b>                  25 <b>long annex working with a number of stakeholders. The</b></p> <p style="text-align: center;">Page 190</p>
<p>1 <b>question has now become, actually, now you have sort of</b>                  2 <b>raised the bar on that, raised the profile of that</b>                  3 <b>issue, how do you incorporate something of that or all</b>                  4 <b>of that or how do you put that into the main text of</b>                  5 <b>Keeping Children Safe in Education, because, if you keep</b>                  6 <b>adding these additional annexes, will people really read</b>                  7 <b>the document that you are saying is absolutely critical</b>                  8 <b>for them to read?</b>                  9 Q. I suppose I'm thinking particularly with children with                  10 special educational needs and particular disabilities.                  11 You will have special schools who may well have an                  12 understanding, whether because of their pupil population                  13 of what goes on with safeguarding. But I'm thinking                  14 safeguarding, in the context of mainstream schools, is                  15 the sort of thing that gives most head teachers chills                  16 at night and keeps them up half the night. The context                  17 of safeguarding in the context of children with                  18 disabilities, and as the expectation is that every                  19 school can accept every child, you could be dealing with                  20 children with very complicated disabilities. There are                  21 a number of really quite difficult issues which are                  22 raised for head teachers and senior managers who won't                  23 have that level of expertise.                  24 I suppose the question is, even if it is not in the                  25 statutory guidance, does there need to be somewhere they</p> <p style="text-align: center;">Page 191</p>	<p>1 can go or a set of resources that they can look at to                  2 try and calm their own mind about this, even within an                  3 autonomous system?                  4 <b>A. Perhaps we should ask that question. Again, when I was</b>                  5 <b>listening to the two witnesses before lunch, thinking</b>                  6 <b>about actually who is the best person to provide that,</b>                  7 <b>should that be something that the government provides,</b>                  8 <b>should that be something that's commissioned out, if</b>                  9 <b>that's something that would be useful to the sector.</b>                  10 <b>I was going to go on to relationships and sex</b>                  11 <b>education for the same event --</b>                  12 Q. Again, I could get the same passage up in the sex and                  13 relationship guidance. There are three paragraphs which                  14 say you need to make sure --                  15 <b>A. It might be different for -- exactly. So I guess, on</b>                  16 <b>that, the new curriculum comes in --</b>                  17 Q. In fact, why don't we have a quick look at that.                  18 DFE002039_015. This is the sex and relationship                  19 education which was published recently. It is a sort of                  20 35/40-page document. Again, there are only three                  21 paragraphs. Ralph, would you mind getting up 33 through                  22 to 35.                  23 <b>A. Again, this sort of makes the similar sort of point,</b>                  24 <b>which is, actually, it might need to be different and</b>                  25 <b>tailored, for special educational needs pupils, sort of,</b></p> <p style="text-align: center;">Page 192</p>

<p>1 <b>"Please can you think about that as you're rolling this</b>                  2 <b>out". I guess, because this is new -- this is mandatory</b>                  3 <b>for all schools from next September -- there is</b>                  4 <b>a programme of work happening, which started this</b>                  5 <b>September, for a year, the Early Adopters starting to</b>                  6 <b>work out how this is best going to work. There is</b>                  7 <b>a chunk of money invested into it this year to develop</b>                  8 <b>implementation materials. So both -- I can take back</b>                  9 <b>the things we have heard in these hearings and I'm sure</b>                  10 <b>the team who are working on that are hearing things from</b>                  11 <b>the schools who are part of the Early Adopter Programme</b>                  12 <b>to think about, actually, should there be particular</b>                  13 <b>materials, would it be helpful if those particular</b>                  14 <b>materials were developed for different kinds of pupils?</b>                  15 <b>So I suspect, in this case, it might well not be in</b>                  16 <b>a revised version of the guidance, but it might be some</b>                  17 <b>underpinning implementation materials, if that was</b>                  18 <b>appropriate.</b></p> <p>19 Q. I suppose, in particular, I'm thinking about the fact                  20 that there might need to be, particularly for the                  21 special schools sector, and for children within                  22 mainstream school who have special educational needs,                  23 particular sorts of training for staff, particularly                  24 with mainstream schools, where they may well not have                  25 the understanding that special schools do of sexual</p> <p style="text-align: center;">Page 193</p>	<p>1 development, sexual relationships and also the need for                  2 that to be a continuous process rather than, "Here is                  3 one lesson about sexting. Now please don't do it",                  4 which may well be what happens within the context of                  5 a mainstream school. But also to have a set of reliable                  6 materials with minimum standards so that people know                  7 where to look?</p> <p>8 <b>A. So I guess the minimum standards point is a more</b>                  9 <b>difficult one, in the context of this guidance, and</b>                  10 <b>I can't remember who it was who -- maybe it was</b>                  11 <b>Dame Christine, who made the point that this has been</b>                  12 <b>quite a difficult piece of guidance to get right and, in</b>                  13 <b>her view, maybe it isn't quite right yet in terms of how</b>                  14 <b>much it sets out what needs to be covered but doesn't</b>                  15 <b>sort of say how and in a great degree of specificity.</b>                  16 <b>It is obviously a piece of guidance that is trying</b>                  17 <b>to do a great deal for a great number of schools, and</b>                  18 <b>therefore, you know, some of those tradeoffs need to</b>                  19 <b>have been made. But I think that's the purpose of</b>                  20 <b>running it for a year and thinking about the</b>                  21 <b>implementation materials underneath.</b></p> <p>22 <b>Just an additional point which was on the online</b>                  23 <b>stuff that we heard this morning. Again, I think that</b>                  24 <b>was really helpful to have heard. This relationship and</b>                  25 <b>sex education guidance covers online, the department has</b></p> <p style="text-align: center;">Page 194</p>
<p>1 <b>published some guidance on online, but thinking --</b>                  2 <b>again, hearing some of the witnesses talk about the</b>                  3 <b>differences and thinking about whether that's reflected</b>                  4 <b>or whether there needs to be some more support in the</b>                  5 <b>implementation materials is something that's launched.</b></p> <p>6 Q. I think the question really is, the guidance in and of                  7 itself has been criticised -- the sex and relationship                  8 guidance has been criticised by a number of schools for                  9 saying, "You're leaving us to do it ourselves. You're                  10 not being prescriptive enough and, therefore, we are                  11 able to be at the vagaries of different pressure                  12 groups". This inquiry isn't interested in that aspect                  13 which in and of itself can be problematic and                  14 challenging.</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. What this inquiry is interested in, though, is making                  17 sure, because of the link between high numbers of those                  18 who then go on to have harmful sexual behaviour or are                  19 identified as such, the need to ensure that there is                  20 good quality sex and relationship education, both in the                  21 special school setting and in the mainstream school                  22 setting. It is difficult to know how that can be                  23 delivered by 15,000 different schools if they're                  24 operating under 15,000 different umbrellas, so to speak?</p> <p>25 <b>A. I guess my point does still stand, in that, actually,</b></p> <p style="text-align: center;">Page 195</p>	<p>1 <b>schools will want to do this in different ways for their</b>                  2 <b>cohort of children, and I guess maybe that also speaks</b>                  3 <b>to your point and the point of this inquiry, which is,</b>                  4 <b>you know, does it, and I think the criticism has been</b>                  5 <b>that it doesn't, potentially, but I think what I'm</b>                  6 <b>saying is, in the year that we are in, that's -- the</b>                  7 <b>focus is on thinking about the materials that are being</b>                  8 <b>developed and those that need to be developed or that</b>                  9 <b>would be helpful to be developed, so learning from the</b>                  10 <b>schools around the Early Adopter Programme and --</b></p> <p>11 Q. Do those schools on the Early Adopter Programme include                  12 special schools?</p> <p>13 <b>A. I don't know.</b></p> <p>14 Q. Do they include schools, for example, with Autistic                  15 Spectrum Disorder units?</p> <p>16 <b>A. I don't know. I can go and ask.</b></p> <p>17 Q. Can we turn now, I think we have dealt with the                  18 development of advocacy schools and the sex and                  19 relationship education. Can we deal a little bit about                  20 inspecting against standards. You've heard -- we have                  21 largely dealt with this because we have dealt with the                  22 national minimum standards. But we have also heard                  23 various people and various individuals who have given                  24 evidence to us have identified or have asked us about                  25 what the quality of inspection is like within the</p> <p style="text-align: center;">Page 196</p>

1 special school setting and whether or not inspectors  
 2 have sufficient expertise. From your perspective in the  
 3 Department for Education, do you think that they have  
 4 the right sort of training, particularly in  
 5 communicating with young people?  
 6 **A. So we are concerned with whether the standards are met,**  
 7 **rather than with how the inspecting happens. So I don't**  
 8 **think it's probably right for me to comment on the**  
 9 **training and specialism of inspectors, but I do know**  
 10 **that the inspectorates think very carefully about the**  
 11 **teams they are putting together when they are going out**  
 12 **on an inspection, both in terms of the type of school**  
 13 **and the lines of enquiry.**  
 14 Q. Can we go back briefly to Keeping Children Safe in  
 15 Education because I went off on a tangent to  
 16 relationship and sex education and then went on to  
 17 something else, but I meant to ask you a question which  
 18 I have now identified, which is what the teaching unions  
 19 say -- and all of them say this to us in their written  
 20 evidence to us -- is that Keeping Children Safe in  
 21 Education is all well and good, but unless there is  
 22 a power to direct that schools do the training, a set of  
 23 standards -- again, I think we are back, like the sex  
 24 and relationship education, to a set of standards as to  
 25 what has to be covered, and that there should be common

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1 that the quality and, therefore, quantity of such  
 2 training is often inadequate, is what they have said to  
 3 us. I think that's reflected in what all the teaching  
 4 unions have said to us about their concerns about the  
 5 quantity and quality of training.  
 6 Can we turn now to developing a safeguarding culture  
 7 in residential special schools --  
 8 **A. Sure.**  
 9 Q. -- and developing a safeguarding culture in all  
 10 independent schools? What has the department done, if  
 11 anything, in order to promote safe cultures within the  
 12 context of our schools?  
 13 **A. The key thing -- the key two documents, Working Together**  
 14 **and Keeping Children Safe in Education -- I know more**  
 15 **about Keeping Children Safe in Education, in terms of,**  
 16 **you know, the various parts. I've just explained the**  
 17 **part 1 bit, and you all know anyway, but thinking about**  
 18 **how we use that document and respond to different**  
 19 **events, how we keep it continually updated and we tend**  
 20 **to do a minor revision versus a more major revision.**  
 21 **Those are our two key pieces of guidance. I won't talk**  
 22 **about DBS, because we are going to talk about that later**  
 23 **in the week.**  
 24 Q. Do you think that there might be some different factors,  
 25 in terms of developing safeguarding cultures,

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1 training across the piece with a sort of minimum  
 2 expectation in terms of professional development, that  
 3 it's too much of a lottery as to which school you end up  
 4 in as to whether or not you get any training at all and,  
 5 if so, the nature and quality of that training. Is that  
 6 something which the department has thought about?  
 7 **A. I don't know whether the department has thought about it**  
 8 **before. I guess the point about KCSIE being the asks of**  
 9 **a school rather than setting out precisely exactly what**  
 10 **needs to happen. It's obviously very clear in part 1**  
 11 **about how you report a concern, both in terms of**  
 12 **reporting it to the local authority and writing things**  
 13 **down. In terms of the training I don't think it**  
 14 **specifies what the training is.**  
 15 Q. No, it doesn't specify what the training is. There is  
 16 no kind of minimum cover, so to speak. It doesn't say,  
 17 "You must make sure you cover the following topics"?  
 18 **A. I don't know whether that's been thought about.**  
 19 Q. I suppose what the unions are saying is --  
 20 **A. I can understand what the unions are saying and I can**  
 21 **understand -- well, I can understand the point and also,**  
 22 **I guess, in terms of the role they are playing on behalf**  
 23 **of their members, I can understand the point they are**  
 24 **making.**  
 25 Q. They have told us that the NASUWT in particular has said

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1 particularly in residential special schools, given the  
 2 fact that parents may play significantly less of a role  
 3 in their children's lives not through any conscious  
 4 decision on their part, but just because of the distance  
 5 that these children are often placed at?  
 6 **A. I've heard a lot about the communications challenges,**  
 7 **through to, you know, people not listening or valuing**  
 8 **children's views over time, but also in terms of**  
 9 **the kind of practical things you've talked about in**  
 10 **terms of listening, in terms of advocacy services. So**  
 11 **that's clearly coming out as a theme and something to**  
 12 **reflect on in terms of, you know, how do we -- what role**  
 13 **have some of these pieces of guidance got to help that**  
 14 **bit of the problem, I guess.**  
 15 Q. I suppose underlying that, though, is why the children  
 16 are there in the first place. What both Dame Christine  
 17 and Ms Povey and Mr Robinson say is, they often arrive  
 18 in a residential special school at a point of crisis.  
 19 It is often not a planned placement. It is often  
 20 because things really have fallen apart, either  
 21 educationally or socially or in all those ways. One of  
 22 the issues that Dame Christine raised, and I think this  
 23 is a drum she has been banging for an exceptionally long  
 24 period of time, is the silo working between health,  
 25 education and social care, so there's lots of kind of

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1 fighting about, "I'm not paying for this, I'm not paying  
 2 for that, you can pay for this". You have obviously got  
 3 the Children and Families Act 2014 which took some steps  
 4 towards integrating the special educational needs  
 5 framework, but still enabled there to be different sorts  
 6 of statutory responsibilities for different bodies.

7 **A. Yes.**

8 Q. So health has a different statutory responsibility from  
 9 social care; social care has different sets of statutory  
 10 responsibilities from education; and education are the  
 11 only body that have mandatory duties imposed upon them?

12 **A. Yes.**

13 Q. What, if anything, is the government thinking about  
 14 doing about that?

15 **A. I guess the most relevant thing they are doing in this  
 16 space is the special education needs review they have  
 17 announced. The first stage of that is to understand the  
 18 landscape and put down some markers of things that  
 19 people agree on. The second is to -- the more difficult  
 20 bit is trying to move that forward and solve it.**

21 Q. How many people are working on the special educational  
 22 needs review within your department?

23 **A. I know they have put a new team of ten people on it.  
 24 I think that also links with the current team that are  
 25 working within the policy area of special educational**

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1 Q. There is no mandatory qualifications needed, unlike in  
 2 children's homes, where there is that. Do you think  
 3 that there is, or there should be, a move towards  
 4 more -- well, firstly, better pay within this sector,  
 5 and, secondly, better regularisation and standardisation  
 6 of some really good-quality qualifications and training  
 7 that have to be done?

8 **A. I don't know a policy position on that. I guess I've  
 9 heard, and you've asked me questions about the -- you  
 10 know, the training of both teachers and governors.  
 11 Thinking about other staff is certainly worth doing.  
 12 I don't think I have a personal or policy view on that.**

13 MS SCOLDING: Thank you very much, Ms Dixon. I have no  
 14 further questions for you. Chair and panel, I don't  
 15 know whether you have any questions?

16 THE CHAIR: Ms Sharpling?

17 Questions from THE PANEL

18 MS SHARPLING: Thank you, Ms Dixon. Just one from me.

19 **A. Sure.**

20 MS SHARPLING: Around about 2012, and perhaps a bit before  
 21 then, there was considerable debate in the public about  
 22 the bureaucracy attached to front-line practitioners and  
 23 a lot of work was done, as I remember, to try to remove  
 24 some of that bureaucracy. Was the reason that the  
 25 notification to the inspectorate was removed in 2012 on

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1 **needs.**

2 Q. I suppose Dame Christine, if she was asking questions,  
 3 would sit there and say to you, "But we have had the  
 4 Children and Families Act. It only came in in 2014.  
 5 Less than five years later, we are having another  
 6 review. Until you fix the legislation, you're not going  
 7 to fix anything else". I don't know if you've got any  
 8 response to that?

9 **A. I probably don't know enough about the particular area.  
 10 I can fully appreciate it is a very difficult review and  
 11 it will have looked at a number of things that other  
 12 people have looked at before. I guess the fact that  
 13 it's not solved means it's worth having another look.  
 14 I think, you know, it will either -- the injection of  
 15 new money is important, and that needs thinking about.  
 16 I probably can't say any more than that, I don't think.**

17 Q. The last issue I wanted to raise with you, and I think  
 18 on Friday I am going to raise some more general issues  
 19 with you about your role as a regulator, is about  
 20 training and workforce development of staff.

21 **A. Okay.**

22 Q. Again, everybody who has come to give us evidence has  
 23 said it is a poorly paid sector, particularly  
 24 residential special schools.

25 **A. Yes.**

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1 the NMS in part supported by complaints that it was  
 2 a bureaucratic requirement.

3 **A. I don't know exactly, but I do know that a lot of  
 4 the slimming-down at that point or the number of  
 5 different documents was in response to the fact that it  
 6 was felt that everything had got overly bureaucratic.  
 7 I don't know about that particular criteria.  
 8 I do know it was consulted on.**

9 MS SHARPLING: Will you agree that a bureaucratic reason  
 10 wouldn't necessarily be the same value as a reason than  
 11 the reasons that you have given in your statement?

12 **A. Sorry, I don't ...?**

13 MS SHARPLING: If it was a bureaucratic reason, that  
 14 wouldn't carry quite the same weight as the reasons that  
 15 you have articulated in your statement.

16 **A. I guess, what does "bureaucratic" mean? Does  
 17 "bureaucratic" mean it is a process for nothing or does  
 18 it mean there's been a look at the value -- a weighing  
 19 up of the value of the processes and the number of them,  
 20 which -- I'm sure that we didn't need -- that we didn't  
 21 intentionally needlessly remove things that we thought  
 22 were worth doing.**

23 MS SHARPLING: Thank you.

24 THE CHAIR: We have no further questions. Thank you,  
 25 Ms Dixon.

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1 MS SCOLDING: Thank you very much, Ms Dixon. I will see you	1
2 on Friday.	2 WITNESS RS-A6 (affirmed) .....119
3 Chair and panel, that's the end of the questions for	3
4 today. Thank you very much.	4 Examination by MS BICARREGUI .....119
5 THE CHAIR: Thank you. We will reconvene tomorrow.	5
6 (4.08 pm)	6 MS KATE DIXON (affirmed) .....149
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8 Tuesday, 8 October 2019 at 10.00 am)	8 Examination by MS SCOLDING .....149
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