

1 Tuesday, 8 October 2019
 2 (10.00 am)
 3 THE CHAIR: Good morning, Ms Bicarregui, and welcome to
 4 everybody to Day 7 of this public hearing. Please go
 5 ahead.
 6 MS BICARREGUI: Thank you, chair. This morning, we will be
 7 hearing evidence from Mrs Clair Davies, who is the
 8 principal of Appletree Treatment Centre.
 9 MS CLAIR DAVIES (affirmed)
 10 Examination by MS BICARREGUI
 11 MS BICARREGUI: Mrs Davies, thank you for coming. I have
 12 a few things to say before we start the questions.
 13 First of all, this isn't a test of your memory, so if
 14 you need to refer to documents, they will either be in
 15 the file of papers in front of you or they will come up
 16 on the screen if I refer to them.
 17 Secondly, we can stop if you need to stop, so just
 18 let me know and we can take a break.
 19 Lastly, and I know you know this, we are going to be
 20 talking about a number of children in your evidence, and
 21 please try not to use their names. I think you know the
 22 way in which we are going to be referring to the
 23 children.
 24 **A. I do, yes.**
 25 Q. Can I ask you to turn to your witness statement. It

Page 1

1 you?
 2 **A. That is correct.**
 3 Q. Your statement says that you began working with children
 4 who had been neglected and abused in 1990 in a secondary
 5 school for children who were classed as having emotional
 6 and behavioural difficulties?
 7 **A. That's right.**
 8 Q. Five years after that, you set up Appletree. What
 9 prompted you to set Appletree up?
 10 **A. Okay. I was very concerned at the time that younger**
 11 **children, aged between -- well, 8 to 10 were being**
 12 **placed in big residential institutions with much older**
 13 **children, with teenagers, and because of the severe**
 14 **trauma and abuse that such young children would have**
 15 **suffered to have come to a residential place, their**
 16 **needs are those of much younger children. So really**
 17 **they need a place where they can experience the early**
 18 **years, things they have missed out on, and not be around**
 19 **teenagers, who might ridicule them if they, for example,**
 20 **wanted to suck their thumb or play with baby toys and**
 21 **things like that.**
 22 Q. So that was the impetus, to set up a school and
 23 a children's home for younger children?
 24 **A. Correct, yes.**
 25 Q. Can you briefly, for the panel, outline your

Page 3

1 should be at tab A/1 of the bundle in front of you.
 2 Chair and panel, it's at A/2 of core bundle E.
 3 Your signature has been redacted on that statement,
 4 but can you confirm that you did sign that witness
 5 statement?
 6 **A. Yes, I did.**
 7 Q. Is it still true, to the best of your knowledge and
 8 belief?
 9 **A. Yes, it is.**
 10 Q. Before we begin, Mrs Davies, I know that you watched the
 11 evidence yesterday of RS-A6, or C2, and I believe there
 12 is something you would like to say?
 13 **A. Yes, I would like to say that I'm very sorry for the**
 14 **sexual activity and sexual abuse that took place at**
 15 **Appletree, particularly what C1 did to C2.**
 16 Q. Thank you. Let's start with your time at Appletree.
 17 You have been a principal of Appletree, I think, since
 18 it opened in 1995?
 19 **A. Yes, I have.**
 20 Q. For the purposes of the sort of guidance and education
 21 legislation, you are effectively also the proprietor of
 22 Appletree; is that right?
 23 **A. Yes.**
 24 Q. So there are, as I understand it, two elderly
 25 proprietors, but they have devolved responsibility to

Page 2

1 qualifications, your academic qualifications?
 2 **A. Yes, I have a degree and then a Masters in Special**
 3 **Educational Needs.**
 4 Q. Mrs Davies, it is the nature of this inquiry that we are
 5 focusing on things that went wrong?
 6 **A. Yes.**
 7 Q. The intention is not only to acknowledge the fact of
 8 those things having gone wrong, but also to consider
 9 whether anything can be done to change things and to
 10 stop them going wrong in the same way again. Now, your
 11 statement contains detailed information about your work
 12 with traumatised children, which has been successful,
 13 and we will touch on that, but we will also be
 14 considering what went wrong in 2006 and we will be
 15 considering the extent to which things couldn't go wrong
 16 in the same way again?
 17 **A. Yes.**
 18 Q. RS-C1 came to you when he'd just turned 11, I think?
 19 **A. He was 10.**
 20 Q. Yes, just about to turn 11.
 21 **A. That's correct.**
 22 Q. And left when he was 12 and a half?
 23 **A. That's right.**
 24 Q. His presence at Appletree led to an increase in
 25 sexualised behaviour and sexually abusive behaviour,

Page 4

1 didn't it?

2 **A. Yes.**

3 Q. In your statement, you talk about RS-C1 as one of

4 a handful of cases which went wrong and where you've

5 reflected long and hard about how to put things right?

6 **A. Yes.**

7 Q. So I'd like to look at some of the lessons learned. Is

8 there one thing that stands out for you as having

9 changed or being different?

10 **A. We increased the number of people awake at night to two**

11 **people rather than one.**

12 Q. Again, let's look a little bit at Appletree and the

13 children that you have at Appletree. Is it fair to say

14 that the children you have are primary-aged children who

15 have been subjected to sexual abuse and other forms of

16 neglect?

17 **A. Yes.**

18 Q. The children are between 6 and 12; is that right?

19 **A. That's right.**

20 Q. The children are mostly looked-after children?

21 **A. Yes.**

22 Q. Although a few of them aren't looked after; is that

23 right?

24 **A. It's varied over the years, but the vast majority are**

25 **looked after.**

Page 5

1 Q. So your view is that it is better that they are placed

2 with children who have similar problems to them?

3 **A. Yes.**

4 Q. Is there an alternative view that, actually, it would be

5 better to educate children who may be displaying

6 sexualised behaviours not with other children who are

7 displaying sexualised behaviours?

8 **A. I haven't heard of that. I think the children who we**

9 **help have been excluded from every other school-type**

10 **institution, so there isn't really an option.**

11 Q. So at the point where they're placed with you, foster

12 care isn't an option for the children?

13 **A. I don't -- no, it isn't. I would prefer a child to be**

14 **fostered than come to us, so we'd only take children**

15 **that is not possible for.**

16 Q. In terms of the number of children at Appletree,

17 I think, at the moment -- you describe this in

18 paragraph 41 of your witness statement -- there are 25

19 children currently?

20 **A. Well, we have three homes and we have two schools. So**

21 **Appletree has 12 children living there, and then five**

22 **children who live in one of our other homes come to the**

23 **school, so there are 17 children in the school.**

24 Q. At Fell House?

25 **A. At Fell House there is eight children and the school is**

Page 7

1 Q. Is the aim of what you do to help those children to

2 access mainstream education when they leave --

3 **A. Yes, it is.**

4 Q. -- Appletree. What proportion of the children who leave

5 Appletree go on to a foster placement and a --

6 **A. It is over 90 per cent of the children who leave us.**

7 Q. In your statement, you say that, typically, seven out of

8 the ten children at Appletree will have been suspected,

9 at least, to have been subjected to sexual abuse; is

10 that right?

11 **A. Yes.**

12 Q. You think that hasn't changed much over the years?

13 **A. No, it is about the same.**

14 Q. So we are looking at a population of children, young

15 children, who have been subject to neglect and to sexual

16 abuse at Appletree; is that right?

17 **A. That's right, yes.**

18 Q. Are there risks in having a cohort of children who have

19 been subjected to that level of sexual abuse and neglect

20 together in one place?

21 **A. Yes, there are, but I think there's also advantages, in**

22 **terms of, we're trying to get these children to be able**

23 **to socialise and to go to mainstream schools. I also**

24 **would not want these children to be in isolation, either**

25 **in school or in a home. They need friends.**

Page 6

1 **there.**

2 Q. Actually, just for the benefit of people listening, so

3 there are two schools, Appletree and Fell House?

4 **A. Yes.**

5 Q. Then there are three children's homes?

6 **A. Yes.**

7 Q. Appletree, Fell House and Willow Bank?

8 **A. That's right, yes.**

9 Q. You also describe in your statement a policy where you

10 don't exclude children. Can you tell us a little bit

11 about why that's an important policy for the children at

12 Appletree?

13 **A. Yes. I mean, we really are the end of the road, and**

14 **what we want to do is for children to feel finally they**

15 **have got somewhere that's safe with adults who can take**

16 **care of them and look after them, help them get**

17 **educated, so we don't exclude children. We find a way**

18 **to work with them. On a very odd occasion, we have**

19 **referred them on, and one of those children was C1.**

20 Q. I think you described four children since 1995 whom you

21 have had to exclude from Appletree; is that right?

22 **A. Yes, out of over 160, I think.**

23 Q. Is the flip-side of a policy where you purposefully say

24 to children, "We are not going to exclude you", that

25 some children feel that they have to commit acts which

Page 8

<p>1 simply can't be tolerated? I'm obviously thinking of 2 RS-C1 in this case. Because usual acts of rebellion or 3 bad behaviour don't lead to exclusion at Appletree, do 4 they? 5 A. No. My view is, actually, we have less challenging 6 behaviour because of the non-exclusion policy, because 7 I have worked and know of places where the children know 8 that if they do -- they punch enough people, scratch 9 enough cars, break enough windows, they will be kicked 10 out and I think that causes them to do those things, 11 whereas, at Appletree, there is little point in doing 12 them, if your aim is to try and get out. 13 Q. But at the point where RS-C1 was absconding in the 14 autumn of 2006, he wanted to leave Appletree at that 15 point, didn't he? 16 A. I'm not sure. 17 Q. I think we will look at some of the paperwork -- 18 A. He wanted to get away from school because he didn't want 19 to be in school. 20 Q. I think the conversations he was having with his social 21 worker were that he very much wanted to leave. 22 A. Okay. 23 Q. I suppose the question is, does the non-exclusion 24 policy -- I understand the rationale for it, but does 25 that lead certain children to believe that, in order to</p> <p style="text-align: center;">Page 9</p>	<p>1 get away, they have to do acts which simply can't be 2 tolerated? 3 A. That's not my opinion. 4 Q. You described three aspects of what you do at the 5 Appletree Treatment Centre. You describe the children's 6 home aspect, you describe the schools and then the 7 clinical programme. 8 A. Yes. 9 Q. Again, to give the chair and panel an idea of what you 10 do, could you just tell us what the thinking is behind 11 what you do in the children's homes, for example? 12 A. Yes, absolutely. The first thing we need to do is to 13 make the children feel loved and be very well looked 14 after, have beautiful surroundings, lovely bedrooms, to 15 start a process of them beginning to feel that they can 16 be valued and that they are worth good things happening, 17 because, at the point they come to us, they feel that 18 everything has been their fault, when clearly it has not 19 been their fault, it's been what's happened to them. 20 The home team are very skilled in building a healthy 21 attachment, in making the children feel worthwhile, in 22 planning activities that will help build their 23 self-esteem, but also their resilience, and in helping 24 them be able to function, make friends, and that's the 25 foundation, really. So they are acting as professional</p> <p style="text-align: center;">Page 10</p>
<p>1 parents. 2 Then, like good parents do, we really, really value 3 the children's education, so when they first come to us, 4 all of their needs are very much early years, in every 5 aspect. So we have two classrooms set up which are more 6 like an early years reception area, because the children 7 will have been kicked out of school at that young age, 8 and so we help them to start the learning process, 9 through play and through activities from early years. 10 But we find that, once the children really believe in 11 themselves and they feel safe and they feel that they do 12 deserve good things, we manage to move them into 13 classrooms which are much more formal and we really push 14 them academically because most of the children are 15 bright. We have a good relationship with our local 16 primary school, so we do joint activities together, the 17 children go to after-school clubs there, we do dance 18 performances together and, when the children are 19 planning the transition to go back to primary school, if 20 they are able, we will give them an experience in the 21 local mainstream, to try to really do everything we can 22 to make sure they will be successful. 23 Clearly, the children that we take in have all been 24 abused and neglected. I think it is really important 25 that they get really high-quality therapy, so we have</p> <p style="text-align: center;">Page 11</p>	<p>1 art, music, drama therapists who all of the children see 2 weekly for an hour. We use those therapists because 3 a lot of the trauma the children have had has been 4 pre-verbal, so they are not going to be able to talk 5 about it, but we find, through very consistent and 6 several years of creative therapy, they are able to 7 process their trauma, and then these therapists work 8 alongside us, as they would with parents, so we have 9 a lot of communication with them. They also offer us 10 clinical consultation, and they're involved in our 11 training programmes. 12 Then, I should have said, really, earlier on, the 13 foundation of our success is in our relationships with 14 the children, but if you are making relationships with 15 traumatised children, you do need good clinical support 16 to make sure that you're acting always in the interests 17 of the children, so we also have psychologists that 18 provide training, support and consultation. 19 Q. Thank you, Mrs Davies. I think I just want to pause 20 there briefly to say that everybody heard yesterday the 21 testimony of C2. When these things go wrong -- because 22 lots of children benefit from what you have been 23 describing. But I think, when it goes wrong, clearly 24 there are long-lasting issues, aren't there, for someone 25 like RS-C2?</p> <p style="text-align: center;">Page 12</p>

1 **A. Yes.**
 2 Q. I think perhaps we need to look at some of the issues to
 3 do with restraint, because that seemed to be an issue
 4 which he, in particular, found very difficult and
 5 problematic.
 6 Let's look at that now. In the period prior to
 7 2005, Cumbria Social Services was concerned about the
 8 level of restraint that was being used at Appletree.
 9 Ralph, could we get up the statement of Cumbria:
 10 CCC000016_004. This describes a multi-strategy meeting
 11 that was held about that time. Do you recall there
 12 being a multi-strategy meeting about the use of
 13 restraint?
 14 **A. Yes.**
 15 Q. What they describe, if you could highlight paragraph 15,
 16 please, Ralph -- it says:
 17 "... the police were unable to bring any
 18 prosecution ..."
 19 At this point, the police were involved in this
 20 investigation into restraint, I take it:
 21 "... and one member of staff was dismissed; however,
 22 others remains working for ATC."
 23 An amount of work was done about other techniques:
 24 "There has continued to be concern about the number
 25 of restraints and the injuries caused by the restraints

Page 13

1 **just put our arm around the shoulder and move them away,**
 2 **which we are taught how to do in a safe way, that would**
 3 **classify as a physical intervention.**
 4 Q. When giving evidence, RS-C22's recollection was of
 5 restraints which were far more --
 6 **A. And I can understand that. It's an unpleasant thing to**
 7 **do, for an adult -- and even more so for the child.**
 8 Q. You will recall, I think, having heard his evidence,
 9 that there was one incident in particular, that
 10 Hartlepool Social Services commented on, where three
 11 members of staff restrained him for a period of an hour
 12 and a half. In what circumstances is that level of
 13 restraint acceptable?
 14 **A. C2 could be extremely violent. All he'd known in his**
 15 **life was violence. It's not a surprise. All he had had**
 16 **since a baby was violence being done to him in various**
 17 **different ways, and he didn't have a way of coping with**
 18 **anything without becoming violent.**
 19 **The three-person thing, we don't restrain children**
 20 **on -- flat on the floor, on their back or on their**
 21 **front, so every child, when they are held, is seated, so**
 22 **there would be one person sat there, the child in the**
 23 **middle and another person sat there, and the third**
 24 **person would have been to stop him kicking.**
 25 Q. An hour and a half? It seems like a very long --

Page 15

1 report to the council."
 2 You remember dismissing a member of staff?
 3 **A. Yes.**
 4 Q. Do you remember that others who remained there needed
 5 training, in terms of restraint?
 6 **A. Yes.**
 7 Q. Was that something which -- that training, was that
 8 something which was kept going after --
 9 **A. Oh, yes. Yes, we have always had training. It's very**
 10 **rigorous. You have to do two days about the theory in**
 11 **de-escalation training and then there's two days on the**
 12 **actual physical intervention. It has to be assessed --**
 13 **the instructor has to have somebody looking at the**
 14 **assessment to ensure that it meets the standards, and**
 15 **the instructors have to do updates every year, as does**
 16 **every single member of staff.**
 17 Q. Was that something that was happening in 2005 --
 18 **A. Oh, yes.**
 19 Q. -- 2006? We see from the witness statement of RS-C2
 20 that he was restrained very frequently. So I think
 21 there are 242 restraints in a period of about 15 months,
 22 I think?
 23 **A. I'd say physical interventions, because we have to**
 24 **record every physical intervention. So every time -- so**
 25 **if a child is going to try and hit another child and we**

Page 14

1 **A. I think we'd had -- I'm not saying necessarily that was**
 2 **justified, but we had had a lot of times when he was**
 3 **released and then immediately became violent again.**
 4 Q. Apart from the sheer number, the 242, I think there are
 5 19 incidents in his witness statement where there was an
 6 injury recorded as a result of restraint.
 7 **A. Yes.**
 8 Q. Again, that seems a troubling number of incidents where
 9 there was injury, doesn't it?
 10 **A. I would never want a child to be hurt who was at**
 11 **Appletree.**
 12 Q. But you would accept that he was hurt during the
 13 restraints at that point?
 14 **A. Yes, although, again, the threshold is very low. So**
 15 **a small red mark would count as an injury.**
 16 Q. I think we see a range, don't we, in those 19 incidents,
 17 which aren't all just very minor --
 18 **A. No, there was a carpet burn and there was bruise.**
 19 Q. What was done, at the time that C2 was there, to try and
 20 stop the number of restraints that he was subject to?
 21 **A. We would always, after a restraint, try and talk with**
 22 **the child about how we could avoid it in future and**
 23 **other ways of coping; learning not to be violent, and**
 24 **over time he did become a lot less violent and the**
 25 **restraints did decrease.**

Page 16

1 Q. In terms of recording -- sorry to go back -- you
 2 mentioned the training that every member of staff was
 3 having?
 4 **A. Yes.**
 5 Q. Was this training that was recorded in Appletree?
 6 **A. Absolutely, yes.**
 7 Q. So you have a record --
 8 **A. Yes, it is also recorded by CALM which is the**
 9 **organisation which delivers our training and has done**
 10 **since the 1990s.**
 11 Q. Was that something which, when you have an inspection,
 12 is looked at?
 13 **A. Absolutely. And every incident is sent to the child's**
 14 **social worker and is looked at at their reviews as well.**
 15 Q. Would you have a means of looking at whether
 16 a particular member of staff --
 17 **A. Oh, yes.**
 18 Q. -- was always involved in restraining a particular
 19 child?
 20 **A. Yes. I can't remember exactly when it started, but**
 21 **certainly for many, many years we review -- well, the**
 22 **manager of the home -- the school will review on**
 23 **a weekly basis to look for any patterns, but we formally**
 24 **review every half term and we look for patterns, we look**
 25 **for patterns in terms of children, we look for patterns**

Page 17

1 Q. And the social workers of the children who are being
 2 restrained?
 3 **A. That's right, yes.**
 4 Q. RS-C2 recalled being goaded into behaviour which then
 5 led him to being restrained. Is there any -- how able
 6 are you to ascertain that that type of behaviour is not
 7 going on?
 8 **A. Well, I can't see any reason why anyone would want to**
 9 **goad a child, because it is a very unpleasant thing to**
 10 **have to do, to hold a child. The example he gave,**
 11 **I think the person was trying to say, "Getting violent**
 12 **isn't going to get you what you want". I don't think**
 13 **she was trying to say, "Get violent so I hold you".**
 14 Q. I can see that that's your -- you know, you don't want
 15 to hold children and that's your perception, but is
 16 there any way that that can be monitored? In other
 17 words, are other staff --
 18 **A. Oh, yes.**
 19 Q. -- willing to report concerns about staff who were --
 20 **A. Yes, absolutely, and they have at times over the**
 21 **25 years.**
 22 Q. So that has been an issue occasionally?
 23 **A. Occasionally, yes -- not the goading, but maybe from**
 24 **the -- has reported to me that they felt somebody was**
 25 **overrough with a child.**

Page 19

1 **in terms of adults, we look for patterns in terms of**
 2 **where it took place, the time it took place, whether the**
 3 **child has had some family time around that -- everything**
 4 **we can think of to try and reduce restraint.**
 5 Q. When you say "we", who is it that's doing that?
 6 **A. Okay, that's fine. It's my registered managers in my**
 7 **children's home, my head teacher and myself.**
 8 Q. Are you ever involved -- those four people, are you ever
 9 involved in restraining children?
 10 **A. Yes.**
 11 Q. So where one of you is involved in the restraint, is
 12 there a mechanism for making sure -- for doing the same
 13 level of oversight and checking in respect of
 14 the restraint?
 15 **A. Yes.**
 16 Q. So who would do that? Who would look at the restraints
 17 that you were involved in or the head teacher?
 18 **A. Probably that would be Ofsted and, as a children's home,**
 19 **we get -- well, up until very, very recently, we had two**
 20 **Ofsted inspections a year.**
 21 Q. But nobody other than the inspector that is looking
 22 at --
 23 **A. No.**
 24 Q. -- those restraints?
 25 **A. Well, and the social workers.**

Page 18

1 Q. Again, that would be something that would be reported to
 2 you?
 3 **A. Yes, and would then be reported to the LADO.**
 4 Q. We are going to touch on this briefly again when we look
 5 at the Ofsted emergency inspection in 2013, because it
 6 seems that, at that point, again, there were still
 7 concerns about restraint in some circumstances. But
 8 I want to look at that in terms of absconding as well --
 9 **A. Yes, that's fine.**
 10 Q. -- so I think it is probably best if we look at it at
 11 the same time. If we could get up paragraph 16 of
 12 the Cumbria statement, Ralph, it's at CCC000016_004. If
 13 you could go to paragraph 16. Again, this is a period
 14 in 2016, so ten years after the events that we are
 15 looking at primarily. And an action plan is put in
 16 place, you can see here, by Cumbria, and one staff was
 17 to have refresher training in CALM. So was it the case,
 18 at that point, that refresher training was needed? Is
 19 that because that member of staff hadn't had the
 20 training initially?
 21 **A. No, no.**
 22 Q. Do you recall?
 23 **A. No, they'd had the training. It would have been that we**
 24 **wanted them to have it again to make sure they really**
 25 **understood the proper way to do it.**

Page 20

1 Q. Then, if we look at the picture sort of to date, since
 2 then, since 2016, there have been, I think they say,
 3 seven restraint referrals in a year. That's a dramatic
 4 decline, isn't it, from what we see --
 5 **A. Yes.**
 6 Q. -- in respect of RS-C2. Again, I think they say that
 7 you're working proactively with the LADO?
 8 **A. Yes.**
 9 Q. So there are points in 2006 when this is extremely --
 10 242 in 15 months. Is it the case that there are far
 11 fewer restraints in Appletree now than there were?
 12 **A. There are, but when children join us, they do tend to be**
 13 **more violent, because that is all they have known.**
 14 **Sometimes when they are processing their trauma in**
 15 **therapy they can become more violent. But we do -- I do**
 16 **work incredibly hard to try to make it as few times as**
 17 **possible.**
 18 Q. I have a series of questions on governance, and many of
 19 these questions have been submitted by Slater & Gordon,
 20 who are the solicitors who represent RS-C2.
 21 **A. Yes.**
 22 Q. So there are two schools: Appletree School and
 23 Fell House.
 24 **A. Mmm-hmm.**
 25 Q. There is no board of governors?

Page 21

1 **A. Oh, no, only professionally.**
 2 Q. But you have had some dealings with them before they
 3 become part of the panel of advisors?
 4 **A. Yes, I want to check that they're the best.**
 5 Q. Do they have an oversight role or are they an advisory
 6 panel?
 7 **A. I think it would be fair to say mostly advisory. It**
 8 **does vary. So, for example, the person that I have who**
 9 **is the expert in special educational needs supervises**
 10 **the head teacher and does some scrutiny.**
 11 Q. When you say "supervises the head teacher", what do you
 12 mean by that?
 13 **A. Meets with him and talks with him about how the school**
 14 **is going, things that can be improved, the latest**
 15 **thinking, just trying to make the school as best as it**
 16 **can be.**
 17 Q. What part of that role is safeguarding?
 18 **A. I don't -- well, all of my advisors would be very**
 19 **knowledgeable about safeguarding and would always have**
 20 **that in their minds. So that would form a part of**
 21 **the discussions.**
 22 Q. I think if we -- so there is a clinical psychologist --
 23 **A. Yes.**
 24 Q. -- advising on the clinical programme?
 25 **A. Yes.**

Page 23

1 **A. No.**
 2 Q. I think from paragraph 50 of your statement -- perhaps,
 3 Ralph, we could get that up, APP000064_013. This is the
 4 point in your statement, in case you want to refer to
 5 it, where you describe the fact that there is a panel of
 6 advisors at Appletree?
 7 **A. Yes.**
 8 Q. When people typically think of a school, they think of
 9 a governing body as being the ones who scrutinise
 10 safeguarding and that type of thing. Is this the body
 11 that does that for Appletree and Fell House?
 12 **A. Yes, in part. I also have and always have had**
 13 **a supervisor and the head teacher has a supervisor and**
 14 **they also play a role in that.**
 15 Q. Let's talk about supervisors in a moment. How is this
 16 panel selected?
 17 **A. We work really hard to find what we believe are experts**
 18 **in our field, so children's home, special schools and**
 19 **therapy. And we invite them to come and visit and then**
 20 **to give us advice.**
 21 Q. You send out invitations to people who are sort of
 22 eminent in the field; is that right?
 23 **A. Yes.**
 24 Q. Are these people who you know professionally or
 25 personally?

Page 22

1 Q. So would I be right in thinking that that's largely
 2 about --
 3 **A. The therapy.**
 4 Q. -- the therapy?
 5 **A. Yes -- well, no, it is more than that. It is also**
 6 **helping us to formulate therapeutic plans for the**
 7 **children outside of the therapy room.**
 8 Q. But, again, that doesn't sound to me, as a layman, that
 9 that's going to have a very large safeguarding aspect to
 10 it?
 11 **A. No.**
 12 Q. Then you have just -- secondly, you have described the
 13 SEN specialist?
 14 **A. Mmm-hmm.**
 15 Q. Again, from the outside, that looks like it is largely
 16 an educational oversight role, so talking about the
 17 latest educational thinking with the head teacher?
 18 **A. Yes. My supervisor would talk to me about safeguarding.**
 19 Q. Is that the expert in the field of children's homes?
 20 **A. No, no, she is a senior social worker --**
 21 Q. So this is --
 22 **A. -- who used to work for the local authority.**
 23 Q. This is aside from the panel?
 24 **A. Yes, that's why I say it is split.**
 25 Q. Let's look at the panel first and then we will go on to

Page 24

1 the two -- so the SEN specialist is a supervisor or part
 2 of the panel?
 3 **A. Both.**
 4 Q. The expert in the field of children's homes?
 5 **A. On the panel.**
 6 Q. An educational psychologist?
 7 **A. On the panel.**
 8 Q. And an occupational psychologist?
 9 **A. He also gives some clinical consultation.**
 10 Q. You don't have an express or a designated safeguarding
 11 advisor?
 12 **A. No.**
 13 Q. Would any of these people on the panel be given express
 14 safeguarding responsibilities?
 15 **A. No.**
 16 Q. So there isn't anybody there whose role you say, "Right,
 17 your job is to make sure -- to come and oversee us and
 18 check us and make sure that we're compliant" --
 19 **A. No, that would be my supervisor.**
 20 Q. So that's the senior social worker as well?
 21 **A. Mmm.**
 22 Q. Tell me a little bit, then, about the senior social
 23 worker?
 24 **A. She used to work at a high level in local authority.**
 25 Q. When did she become your supervisor?

Page 25

1 principal, are meeting your safeguarding duties?
 2 **A. Yes.**
 3 Q. But she's not -- she's not on the panel?
 4 **A. No.**
 5 Q. What qualifications does she -- I know she is a senior
 6 social worker, but in terms of the educational side, the
 7 two schools, what qualifications does she have?
 8 **A. She doesn't advise me on the education. We have an**
 9 **advisor who does that.**
 10 Q. In terms of the safeguarding part of education, how
 11 qualified is she to advise you on those aspects?
 12 **A. I think she knows about -- yes, she is.**
 13 Q. How confident are you in her independence?
 14 **A. Oh, yes.**
 15 Q. But why are you confident? I think it is okay to say
 16 you're confident, but why are you confident?
 17 **A. Because I think she's got a lot of professional**
 18 **integrity.**
 19 Q. And you hired her to the role?
 20 **A. Yes, amongst -- yes.**
 21 Q. You pay her to be in that role?
 22 **A. Yes.**
 23 Q. Are the panel paid to do their role as well?
 24 **A. They are just paid to cover their expenses.**
 25 Q. Is there any reference to the panel or the supervisors

Page 27

1 **A. Only about a year ago.**
 2 Q. Prior to that?
 3 **A. Prior to that, it was the proprietor.**
 4 Q. And so the proprietor --
 5 **A. Sorry, the -- yes.**
 6 Q. So the proprietors, as we looked at at the beginning,
 7 those are the elderly couple --
 8 **A. Yes.**
 9 Q. -- in their 80s, did you say?
 10 **A. Yes.**
 11 Q. They technically own Appletree; is that right?
 12 **A. Well, yes.**
 13 Q. Sorry, they don't technically own, they do own it?
 14 **A. Yes.**
 15 Q. But they don't exercise any of the responsibilities of
 16 the proprietors?
 17 **A. No.**
 18 Q. Up until 2018 --
 19 **A. I can't remember exactly, but recently, yes.**
 20 Q. Again, if they're the proprietor, were they able to be
 21 sufficiently independent to advise you on safeguarding
 22 duties?
 23 **A. I think that's -- in my opinion, yes.**
 24 Q. The senior social worker, so she is the person who is
 25 designated, if you like, to ensure that you, as the

Page 26

1 or the website of Appletree, or any --
 2 **A. I'm not sure.**
 3 Q. Are their names in the public domain?
 4 **A. I would think they could be found out, yes.**
 5 Q. I don't want to say this definitively, but I couldn't
 6 see them on the website as "This is our advisory board"?
 7 **A. Then maybe not.**
 8 Q. Do you agree that it would be important that they should
 9 be public, and sort of accountable, if you like, for
 10 their connection?
 11 **A. I think that's quite a grey area.**
 12 Q. How often do the panel meet?
 13 **A. Formally, once a year, but I see them more often than**
 14 **that.**
 15 Q. So there is a meeting of the panel once a year, and is
 16 that held at the school?
 17 **A. No, it's held locally.**
 18 Q. Is there a minute taken of those meetings?
 19 **A. Yes.**
 20 Q. Do they make recommendations to the school at that
 21 point?
 22 **A. Yes.**
 23 Q. Who is the person who reports to the panel? Is it --
 24 **A. Myself -- well, actually, it's varied over the years.**
 25 **Sometimes they get reports from other people as well.**

Page 28

1 Q. But at the meeting, would it be you or would it be --
 2 **A. Oh, no, it would be other people who have made the**
 3 **reports to. So the head teacher, the resident managers.**
 4 Q. So at that point, there wouldn't be as many staff at
 5 Appletree?
 6 **A. No, we have to be careful about that.**
 7 Q. So you are essentially -- do they come and scrutinise
 8 records, do they look through restraint records? Do
 9 they --
 10 **A. Yes.**
 11 Q. Because, I think, earlier, we were discussing the fact
 12 that, if you were restraining a child, there would be
 13 less scrutiny of that.
 14 **A. No, I think there is scrutiny, and can I say it is not**
 15 **just us. All the social workers get to see it at the**
 16 **children's six-monthly reviews, the independent**
 17 **reviewing officer has the information, and ...**
 18 Q. I can see that the individual child's social worker
 19 would have an overview of that particular child's
 20 restraints, but they wouldn't have an overview, would
 21 they, of the whole picture, because you wouldn't be
 22 giving information to that particular social worker --
 23 **A. No, that would be Ofsted.**
 24 Q. I think the level of scrutiny of the four senior
 25 managers then, in terms of restraints, seems to be less,

Page 29

1 **A. Yes, they contribute to it.**
 2 Q. But their meeting is only once a year?
 3 **A. Yes.**
 4 Q. Do they have any power to tell you to do things, this
 5 panel of advisors?
 6 **A. I would be very foolish not to take their advice.**
 7 Q. But there is no -- they can't --
 8 **A. No, it doesn't kind of exist in ...**
 9 Q. Okay. Safeguarding training. I think you refer to this
 10 at paragraph 61 of your statement. Ralph, if you could
 11 just go over to _015. It's at the bottom where we
 12 start. You state that all candidates are sent a copy of
 13 Keeping Children Safe in Education before they come to
 14 interview?
 15 **A. Yes.**
 16 Q. So you're familiar with that guidance?
 17 **A. Yes, it's been updated since, as we know.**
 18 Q. You're confident that all members of staff are familiar
 19 with it?
 20 **A. Yes.**
 21 Q. Who makes sure, or what processes do you have in place
 22 to make sure, that they are?
 23 **A. Yes, as I say, they get the information prior to**
 24 **interview, but then, once they have been appointed, we**
 25 **make sure that we sit down and they have not only**

Page 31

1 if you like, than that of the staff?
 2 **A. Yes.**
 3 Q. So if an external body like the LADO or Ofsted wanted to
 4 get information from the panel of advisors, would
 5 they -- how would they get the information? Does Ofsted
 6 consult with them when they come for their --
 7 **A. Oh, yes, particularly for the school, the -- our expert**
 8 **in SEN, yes.**
 9 Q. So when there is an Ofsted inspection, you make --
 10 **A. Yes, that person would talk to them.**
 11 Q. That person is on site?
 12 **A. Yes.**
 13 Q. Does Ofsted talk to them as if a sort of proxy for
 14 a governor?
 15 **A. Yes, yes.**
 16 Q. Is that your understanding of how it works?
 17 **A. They also treat me as a governor too, because I think,**
 18 **in this, I do have a governance role.**
 19 Q. So you're the proprietor though, as well, or the --
 20 you're standing in the shoes of the proprietor?
 21 **A. Mmm.**
 22 Q. It is, I suppose -- yes, in the guidance, the proprietor
 23 and governors sometimes are interchangeable, I suppose,
 24 but you don't have a -- your feeling is that the panel
 25 acts a little as a governing body?

Page 30

1 **read -- signed to say they have read and understood, but**
 2 **we also ask questions to evidence that too.**
 3 Q. So they do a sort of quiz or something --
 4 **A. Yes, part of induction, yes.**
 5 Q. How recently do you update that training?
 6 **A. Every year.**
 7 Q. I think in your statement you say there's external
 8 training every --
 9 **A. Yes, we use an external trainer.**
 10 Q. Every three years?
 11 **A. We would do online training every year, but then, every**
 12 **three years, we have an external person come and deliver**
 13 **it to us.**
 14 Q. When is the next planned training session?
 15 **A. I'm not sure. It would be in this academic year.**
 16 Q. Is that because, as you say, Keeping Children Safe in
 17 Education has just been updated?
 18 **A. Yes.**
 19 Q. Who is the designated safeguarding lead at Appletree?
 20 **A. Me.**
 21 Q. If we could get up DFE001862_089. This is a bit of
 22 Keeping Children Safe in Education. In fact, it is
 23 annex B. Ralph, if you could highlight bullet point
 24 109, right at the bottom -- sorry, the footnote,
 25 I should say. It says here:

Page 32

1 "When a school has a sole proprietor rather than
 2 a governing body ..."
 3 Which is my understanding of the position:
 4 "... appropriate steps should be taken to ensure
 5 that the member of the senior leadership team who is
 6 appointed as the designated safeguarding lead is able to
 7 discharge that role with sufficient independence,
 8 particularly in relation to any allegations involving
 9 the proprietor or members of the proprietor's family."
 10 That's a bit problematic in the setup you have just
 11 described, isn't it, because you are both the DSL and
 12 the proprietor. What it says here is:
 13 "This may involve, including in the appointment of
 14 the DSL, written confirmation that part of the duties of
 15 the post involve contacting the local authority
 16 designated officer on any matter that the DSL considers
 17 cannot be properly dealt with internally."
 18 They go on to say:
 19 "Consideration could also be given to providing the
 20 DSL with access to external advice from an appropriate
 21 company ..."
 22 **A. Yes. It is problematic because I'm not the proprietor**
 23 **and I'm not really sure how we can describe me, because,**
 24 **as I say, the proprietors are very elderly and not**
 25 **active in the school.**

Page 33

1 this, that you need to consider appointing someone as
 2 a DSL who isn't --
 3 **A. Oh, sorry, I'm not -- there are other people with**
 4 **designated safeguarding officer status at the school.**
 5 Q. So when I said, "Who is the DSL?", you said --
 6 **A. I'm the lead.**
 7 Q. -- "I am". So who else is a designated safeguarding --
 8 **A. The registered managers and the head teacher.**
 9 Q. So the registered managers of the children's homes?
 10 **A. Yes.**
 11 Q. And the head teacher?
 12 **A. Yes.**
 13 Q. The head teacher is Rob Davies?
 14 **A. Yes.**
 15 Q. And he is your husband?
 16 **A. Yes.**
 17 Q. So the same problem lies there, doesn't it?
 18 **A. Mmm.**
 19 Q. The two registered managers of the children's homes are
 20 also DSLs?
 21 **A. They are, and they're trained as DSL.**
 22 Q. But you employ them?
 23 **A. Yes.**
 24 Q. You are, to all intents and purposes, their superior?
 25 **A. Yes.**

Page 35

1 Q. Yes. Because I think we agreed at the beginning that
 2 they have devolved responsibility to you?
 3 **A. Yes.**
 4 Q. So is this something that you are going to need to think
 5 about internally?
 6 **A. I would -- is this -- are you saying if I did something**
 7 **wrong, who would report me?**
 8 Q. Exactly.
 9 **A. I think there are plenty of people that would report me**
 10 **at Appletree.**
 11 Q. Aren't they all junior to you, Mrs Davies?
 12 **A. I don't think they would be concerned about that.**
 13 Q. I appreciate your views, that you feel that, but it
 14 is -- the system is set up so that that is enshrined, if
 15 you like, in the structure of the school?
 16 **A. I hear what you are saying, but even at -- so I see**
 17 **every single member who we employ as part of their**
 18 **induction, and at that point, I actually say to them as**
 19 **part of setting the tone for safeguarding that, even if**
 20 **they see me doing something wrong, I would want them to**
 21 **say something, and I say that to all of them.**
 22 **I appreciate that there is a power dynamic, but I do**
 23 **very explicitly say that everybody needs to report**
 24 **anything wrong, no matter who it is.**
 25 Q. If that is not enough? Don't you think, having seen

Page 34

1 Q. I think it is worth having another look at this annex of
 2 the guidance, don't you think?
 3 **A. Yes.**
 4 Q. So we have looked at some of the issues around
 5 restraint. I'd like to go back now and look at the
 6 decision that was taken to accept RS-C1 at Appletree?
 7 **A. Yes.**
 8 Q. So at the time you were asked to consider a placement
 9 for him, he was 10 years old; that's right?
 10 **A. That's right.**
 11 Q. He turned 11 when he was with you?
 12 **A. Yes.**
 13 Q. I don't want to go to too much of the paperwork, because
 14 it is very much his private life, but it is -- he had
 15 what was described as a chaotic and abusive early life,
 16 didn't he?
 17 **A. Very much so.**
 18 Q. His father was a schedule 1 offender?
 19 **A. Yes.**
 20 Q. He was taken into care when he was 5 years old?
 21 **A. Mmm-hmm.**
 22 Q. There was a whole series of incidents of neglect, poor
 23 treatment and some very strong concerns that he,
 24 himself, had been sexually abused?
 25 **A. Yes -- not only in his family, but also at a children's**

Page 36

1 **home he was at for four years prior to us.**
 2 Q. I do want to -- again, I don't want to take you to the
 3 paperwork, necessarily, but a report that was written
 4 before he came to you, but that was shared with you,
 5 described that he was "now developing a pattern of
 6 sexually abusive behaviours towards others. The effect
 7 of these behaviours is that he puts both himself and
 8 others at risk". That was something -- I think you had
 9 that report --
 10 **A. Yes.**
 11 Q. -- at the time of ...
 12 You knew, I think, that the reason he had been
 13 excluded from his mainstream school was he had sexually
 14 abused a five-year-old boy in the toilets?
 15 **A. Yes.**
 16 Q. I think you accept that you knew that he had a high
 17 level of sexualised behaviours at the time you admitted
 18 him?
 19 **A. We did.**
 20 Q. There is a meeting. Ralph, if we could call this up,
 21 it's APP000045_002. This describes some of
 22 the behaviours that RS-C1 displayed while he was in the
 23 care home. But if we go down to the bottom -- sorry,
 24 Ralph, yes, if you could highlight that, that would be
 25 great. This is a meeting where two of your staff go up

Page 37

1 sexualised behaviour being longstanding, and it's always
 2 been -- this is the fourth bulletpoint -- the case that
 3 he has demonstrated sexualised behaviour, but it is this
 4 dimension which is increasing.
 5 Do you see that? Then, at bullet point 8:
 6 "The workers from [the care home we are not
 7 mentioning] feel that RS-C1 is a risk to himself, to
 8 other residents and to adults."
 9 Do you see that? Do you see the discussion that
 10 your two staff members had when they went to visit RS-C1
 11 reflects the level of concern that was felt about RS-C1
 12 at the time?
 13 **A. No, I don't think it did.**
 14 Q. Do you think that had an impact on the fact of his
 15 admission to Appletree?
 16 **A. Yes.**
 17 Q. Some of the paperwork that you did have does express
 18 a high level of concern, doesn't it, so what impact did
 19 what the staff at the previous care home said have on
 20 you internally, do you think?
 21 **A. I think it probably changed the two people who went to**
 22 **see them, it changed their minds.**
 23 Q. It changed their minds, okay. Do you remember if you
 24 were given information at the time, more detailed
 25 information, about the exclusion of RS-C1 for having

Page 39

1 to see RS-C1 in his care home at that point, and they
 2 are -- I think it is right to say the reason they went
 3 is you were concerned about the level of his sexualised
 4 behaviours; is that right?
 5 **A. Yes, that's correct.**
 6 Q. Then it says:
 7 "Staff at ..."
 8 We are not mentioning the name of the care home?
 9 **A. No.**
 10 Q. "... have not experienced any incidents of sexualised
 11 behaviour of a serious nature. RS-C1 has shown
 12 incidents of curiosity, but nothing to a level that
 13 would cause high levels of concern."
 14 This is what two members of your staff were told
 15 when they went up to the previous care home; is that
 16 right?
 17 **A. Yes, that's right.**
 18 Q. Just to put it in some sort of timeframe, this document
 19 isn't dated, but it is a decision that was taken
 20 between January and April. We know that from the end of
 21 this document, which talks about a placement decision
 22 in April 2005. So, Ralph, if we could go to
 23 BFC000084_002, this is a discussion in January 2005
 24 about the fact of RS-C1's sexualised behaviours. If we
 25 could highlight the bullet points, it talks about his

Page 38

1 sexually assaulted a five-year-old boy?
 2 **A. I don't think we had the detail. We did know.**
 3 Q. I think in the -- in Cumbria County Council's statement,
 4 they have a record of a conversation with one of your
 5 members of staff from July 2005. This is the point
 6 where RS-C1 has started telling staff about the fact
 7 that he had been sexually abused or that there had been
 8 sexual behaviour at the previous care home. That record
 9 of that conversation has your member of staff saying
 10 that his sexualised behaviours have been downplayed. Do
 11 you recall that?
 12 **A. I don't recall that, but I'm not surprised.**
 13 Q. Not that conversation, but do you recall internally
 14 feeling that that was the situation?
 15 **A. Yes.**
 16 Q. Do you think now -- putting aside what you know
 17 happened, but the actual placement, do you think RS-C1
 18 was appropriately placed?
 19 **A. No. I think -- so we did work closely with the NSPCC to**
 20 **try to keep him safe, and he was only a 10-year-old boy.**
 21 **We had safety plans, and for a long time he would say,**
 22 **"I don't want to do this", and we would support him.**
 23 **His biggest fear was he was going to end up like his**
 24 **dad.**
 25 **As I say, I believe that the trigger for what he did**

Page 40

<p>1 was actually the fact that he spoke about the abuse from 2 the previous children's home, he spoke about the abuse 3 from his dad, it was reported to the police, and in his 4 view, absolutely nothing happened, so what was the point 5 in trying so hard? 6 Q. We will come on to look at those two aspects. 7 A. Thank you. 8 Q. Actually, Ralph, if we could get up the risk assessment, 9 APP000028_001. Again, Mrs Davies, it is at 108 of your 10 witness statement, if you want to see it. 11 This is, as I understand it, the action plan that 12 was put in place, and this is when RS-C1 arrived at -- 13 A. Yes, it was before he arrived, yes. 14 Q. Not all of the targets are filled in, but we do have 15 this target for sexualised behaviour towards other 16 young, especially younger children. It is right to say 17 that you were aware that -- 18 A. We were aware and we were aware we were taking a risk, 19 but we were trying to do our best. 20 Q. In particular, younger children. Was that something 21 which concerned you? 22 A. It did concern me, but at the time we thought we 23 could -- as I say, not just us, the clinical 24 psychologist and the NSPCC, we all thought we could put 25 a package together that would keep him safe and help</p> <p style="text-align: center;">Page 41</p>	<p>1 him, and others safe. 2 Q. What we see here is: 3 "Constant access to a member of staff for him to 4 talk to. 5 "Privacy in his room as he requires it. 6 "Vigilance ... when he is around other children." 7 Then it talks about play therapy from September. It 8 is right to say RS-C1 didn't always engage with therapy? 9 A. Yes. 10 Q. He engaged with it sporadically. Would that be fair? 11 A. Yes, that would be right. 12 Q. Again, no other children allowed into RS-C1's room 13 without staff supervision, and vice versa, and access to 14 drawing materials. So RS-C1, I think part of 15 the disclosure in July 2005 was through him drawing 16 things? 17 A. Drawing. 18 Q. So despite this risk assessment being in place, we now 19 know that there were instances of sexualised behaviour 20 between him and other children at Appletree, don't we? 21 A. Yes. 22 Q. Those instances were not simply when he was absconding 23 with those other children. We are aware, aren't we, of 24 instances when he was actually inside the home? 25 A. I know that's what he says, yes.</p> <p style="text-align: center;">Page 42</p>
<p>1 Q. I think, Ralph, if we go to OHY006987_012. Just to give 2 you some context about this bit of paper, this is part 3 of the police interview of RS-C3, so the incident on 4 9 November was RS-C1, RS-C2 and RS-C3. This is the 5 interview of RS-C3. We see here an incident that he 6 describes about C5 being on the floor and C2 "in bed 7 with me. I was faking it. I put my penis in his bum 8 cheeks. Then went into RS-C1's room and RS-C2 and 9 I were masturbating each other. RS-C5 was bent over and 10 RS-C1 put his willy in RS-C5's bum. When everyone was 11 finished, I went into my mate's room and said it had 12 been a hot day", I think it says. 13 Again, this is clearly sexualised behaviour that is 14 happening, not absconding, but in the children's rooms. 15 We have another example of this -- Ralph, if you could 16 go to the same document, _014. This is actually very 17 difficult to read. At the very bottom, we see: 18 "RS-C1 touching me", I think it says, "in a gay way 19 in his old room". This is the statement of RS-C4. If 20 we could go over to the next page, please, Ralph: 21 "RS-C1 touching my penis in his old room." 22 I can't read that at the moment. But this is the 23 interview of RS-C4. So, again, these are incidents 24 happening in the children's bedrooms, aren't they -- 25 A. Yes.</p> <p style="text-align: center;">Page 43</p>	<p>1 Q. -- not when they are absconding? Just to give this 2 a little bit of context, I know you've got a list with 3 you. RS-C5 was younger than RS-C1, wasn't he? 4 A. Yes. 5 Q. I think I've got it about three and a half years' age 6 difference? 7 A. Yes. 8 Q. So the risk assessment that was put in place didn't 9 work? 10 A. No. 11 Q. Why do you think that risk assessment didn't work? 12 A. I think we didn't know the extent to how predatory the 13 child was. 14 Q. It is not -- I mean, it is RS-C1, and I think -- well, 15 I will ask you, would it be fair to say that there was 16 an increase in sexualised behaviour generally when he 17 was -- 18 A. Yes, there was, definitely. 19 Q. But it is other children, isn't it, involved in this 20 behaviour? 21 A. Yes. 22 Q. As I understand it, they shouldn't have been able to be 23 in each other's rooms, so they should have -- 24 A. He shouldn't have been able to be in a room with any of 25 the other children, yes.</p> <p style="text-align: center;">Page 44</p>

1 Q. So that was -- when you said how things had changed, was
 2 that the two staff members at night?
 3 **A. I think -- we can't be certain, but I think we have**
 4 **somebody awake at night for the children, in case they**
 5 **wake up or have nightmares or need anything, and we have**
 6 **somebody asleep. I think, possibly, when the person who**
 7 **was awake went to the toilet or was in a different part**
 8 **of the building, that possibly is when the children got**
 9 **into each other's rooms, which is why we have increased**
 10 **to two people awake. We have done other things as well.**
 11 Q. You looked into this presumably in detail after this?
 12 **A. Yes.**
 13 Q. Because there was -- this must have been happening over
 14 a reasonable period of time, mustn't it, not just --
 15 **A. I think it was from the time when he disclosed about the**
 16 **abuse in other places to when he left.**
 17 Q. We know yesterday from RS-C2 that he describes this
 18 happening on a -- I think he says 100 times when he
 19 disclosed it to his foster carer, but certainly a large
 20 number of times?
 21 **A. I clearly don't know.**
 22 Q. You're confident that the measures in place now --
 23 **A. Yes, we have done other measures as well, and we put it**
 24 **so that if a child walked out of their room, the light**
 25 **would come on, so that would alert the person who was**

Page 45

1 **hated school and would do anything to not be in school.**
 2 **It wasn't surprising, given his previous experiences of**
 3 **school. I think RS-C1 wanted to do sexual activity and**
 4 **that's why he went off.**
 5 Q. So there were, I think, four occasions between June 2005
 6 and November 2005. I don't want to be too specific, but
 7 RS-C1 had arrived not long before June 2005, hadn't he,
 8 when he absconded with RS-C2. We know from yesterday,
 9 but just to state it again, there was an age gap, wasn't
 10 there, between RS-C2 and RS-C1?
 11 **A. Yes.**
 12 Q. I think you say in your statement that not only -- so at
 13 the sort of period we are looking at, I think RS-C1 was
 14 12 and RS-C2 was 9?
 15 **A. Yes.**
 16 Q. There would have been some change of that over the time.
 17 I think you say in your evidence that RS-C1 was
 18 physically of a different stature to RS-C2 as well?
 19 **A. Yes.**
 20 Q. Now, you say in your statement that after this -- the
 21 series of absconding incidents between June
 22 and November, there was no evidence that any sexual
 23 behaviour had taken place. But even in the absence of
 24 any knowledge of that, there was knowledge that RS-C1
 25 was a risk to younger children, wasn't there?

Page 47

1 **awake, and we have subsequently had alarms that also**
 2 **sound, not to wake up the children, but in the area**
 3 **where the person who is awake is.**
 4 Q. I think we also know about some sexualised behaviour at
 5 this time between two children sharing a room. As
 6 I understand it, children don't share rooms --
 7 **A. No, they haven't shared for many years.**
 8 Q. I'd like to talk now a bit about absconding. So another
 9 issue, if you like, in relation to RS-C1's risk to other
 10 children, younger children, was that from the time
 11 I think he arrived at Appletree, he started absconding.
 12 **A. Mmm-hmm.**
 13 Q. Ralph, if we could get up APP000012. So you will
 14 recognise this, I think, Mrs Davies?
 15 **A. Yes.**
 16 Q. This is your record of absconding.
 17 **A. Mmm-hmm.**
 18 Q. It is a little bit difficult to read, but down the left
 19 hand we see the different RS-C1 and C2, and a lot of
 20 those entries are RS -- we are not going to go through
 21 it forensically at the moment, but a lot of them are C1
 22 and C2, aren't they?
 23 **A. Yes.**
 24 Q. Why do you think the children were absconding?
 25 **A. I think there was different motivations. I think RS-C2**

Page 46

1 **A. Yes.**
 2 Q. We see that on the --
 3 **A. Yes.**
 4 Q. -- plan when he comes there. When he was not on school
 5 grounds, there was no way of managing that risk?
 6 **A. No.**
 7 Q. So didn't that cause alarm bells to ring, even in the
 8 absence of express knowledge, even without C2 saying,
 9 "This is happening"?
 10 **A. I wish that we had acted sooner.**
 11 Q. The risk assessment, I think we have just looked at the
 12 absconding incidents between the spring of 2005
 13 and November 2005. The risk assessment -- Ralph, if we
 14 could get up APP000012_007, I think. Again, do you
 15 recognise this?
 16 **A. Yes.**
 17 Q. This is the risk assessment for RS-C1. It is dated at
 18 the bottom "September 2006". This is the only version
 19 we have. It seems this is a bit late in terms of all of
 20 the absconding that was happening?
 21 **A. From recollection, it would have been done when he first**
 22 **arrived and then that would be an update and, as you can**
 23 **see, it's got another review date on, and that's the**
 24 **kind of period we used to review them, about every three**
 25 **months.**

Page 48

1 Q. The extent of this, though, is just what's here, so
 2 there's nothing really in the top half, other than to
 3 say who might be harmed, RS-C1 or other children if they
 4 abscond with him, and the procedures at the bottom are,
 5 "Make sure that staff are monitoring him" and "all
 6 gates/fence openings are kept closed"?
 7 **A. Yes. It is very basic compared with what we use now.**
 8 Q. Now there would be something much more comprehensive in
 9 place?
 10 **A. Yes, there is an example of that in my number 42.**
 11 Q. Is that APP000049?
 12 **A. In my bundle that I had when I was making notes, it was**
 13 **42.**
 14 Q. Was it tab 42?
 15 **A. Yes.**
 16 Q. I've seen that, and essentially there are a lot more
 17 pages, aren't there, and there are -- each absconding
 18 incident is recorded?
 19 **A. Yes, we do a much more thorough risk assessment now.**
 20 Q. When each incident is recorded, are there strategies
 21 discussed about how that particular incident could have
 22 been --
 23 **A. Yes, I have to put this in context. We haven't had any**
 24 **children run off -- we didn't have any children run off**
 25 **in the six years from 2013 to 2019 and then there was**

Page 49

1 10 September, 11 September, 25 September, 16 October.
 2 That was, all of a sudden, a high rate of absconding,
 3 wasn't it?
 4 **A. Mmm.**
 5 Q. Again, he was with younger boys, including RS-C2, on
 6 those occasions, wasn't he?
 7 **A. Mmm.**
 8 Q. There was an entry on the social worker's log,
 9 I think -- we can check that's the right document.
 10 Ralph, BFC000043_033. If you could highlight, Ralph,
 11 the text in the middle, just above the middle on the
 12 right. No, that's the first page. I want the 33rd
 13 page. That's it.
 14 It says there RS-C1 not allowed in school for fear
 15 that he may abscond and take other children with him.
 16 Do you see that?
 17 **A. Mmm-hmm.**
 18 Q. Ralph, if you could highlight the date at the top, it is
 19 31 October. That would make sense, wouldn't it?
 20 **A. Yes.**
 21 Q. Because we have seen all of the absconding
 22 in September --
 23 **A. Yes.**
 24 Q. -- and the beginning of October. At that point, you say
 25 in your statement that you decided to home educate him.

Page 51

1 **a one-off incident in January this year.**
 2 Q. Just to be clear, then, there was a clear risk about
 3 RS-C1 and younger children?
 4 **A. Yes.**
 5 Q. And he was absconding often and frequently with RS-C2.
 6 What do you think you could have done differently now --
 7 **A. I think we should have made the recommendations which we**
 8 **made when he moved on much earlier.**
 9 Q. So he should have left Appletree a lot sooner?
 10 **A. One of the reasons I didn't do that was because I was**
 11 **very unsure that he would get the treatment that we felt**
 12 **he really needed.**
 13 Q. Now, there's a period between November 2005
 14 and September 2006, so almost a year, ten months, when
 15 RS-C1 wasn't running away from school, he wasn't
 16 absconding. Why do you think that was the case?
 17 **A. I think he was responding well to what we were offering**
 18 **him and he was feeling better about himself and wanted**
 19 **to try really hard in school and out of it.**
 20 Q. So at that point, he wasn't, you don't think, seeking
 21 out --
 22 **A. No, he was verbalising to us that he really didn't want**
 23 **to do that.**
 24 Q. Then in the chronology, just after the summer holidays,
 25 he started absconding again, didn't he? So we have

Page 50

1 What did you mean by "home educate"?
 2 **A. His teacher would set him the work he would have been**
 3 **doing in class, but a teaching assistant would sit with**
 4 **him and he would do it in the home.**
 5 Q. So he would be in the children's home?
 6 **A. Yes.**
 7 Q. Were any additional measures taken in the children's
 8 home at that point to make sure he wasn't in other
 9 children's rooms, for example?
 10 **A. Yes, I'm sure we were trying everything we could to make**
 11 **sure he wasn't going into other children's rooms.**
 12 Q. Ralph, if we could go to _038. This is quite a lengthy
 13 conversation, but there is one bit in particular in the
 14 fourth paragraph down, please, Ralph. This is also
 15 recorded on the social work file on 31 October:
 16 "RS-C1 handed the phone over to Val Campbell.
 17 I spoke with Val who said there has been some concerns.
 18 She said that RS-C1 has been vocalising that there are
 19 only two boys in the unit he feels that he can trust
 20 himself with. Val said that the unit feels that this is
 21 a positive thing for him to identify, but it is also
 22 worrying for the younger children. Another concern Val
 23 said they have is that he has said he has certain words
 24 he can say to the other children to get them out of
 25 school. She said that she is not sure if this is true

Page 52

1 but that it is a concern."
 2 To be clear, Ralph, could we go back to the page
 3 before, so _037, just to check the date of this, which
 4 I understand to be 31 October, if you could just go up
 5 to the contact date. So this was a conversation then
 6 that a member of your staff was having with --
 7 **A. The social worker.**
 8 Q. -- the social worker, where RS-C1 was saying he only
 9 trusted himself with two members. You've had a big
 10 period of absconding and he's being educated at home.
 11 Was any thought given to ending the placement at this
 12 point, when things had got --
 13 **A. I think it was something we were considering, yes.**
 14 Q. At this point, he was being, as you say, educated in the
 15 children's home?
 16 **A. Mmm-hmm.**
 17 Q. Why did he go back into school?
 18 **A. I have to be honest, I can't recall.**
 19 Q. If we could get up APP000012, Ralph. We can see here,
 20 if we go down -- sorry, go to the next page, _002. We
 21 see that on 1 November, so this was the day after the
 22 record of those conversations, RS-C1 has absconded --
 23 I don't really like that word -- has left with RS-C4 and
 24 RS-C2. Do you see that? It is odd, isn't it, that
 25 after this concern and after him being been educated

Page 53

1 THE CHAIR: Yes, we can do that. We will return at
 2 11.25 am.
 3 MS BICARREGUI: Thank you very much.
 4 (11.08 am)
 5 (A short break)
 6 (11.25 am)
 7 MS BICARREGUI: Mrs Davies, we are going to look now at the
 8 incident on 9 November 2006. This is paragraph 113 of
 9 your witness statement, if you want to see it. Ralph,
 10 perhaps we could have that up on the screen. It is
 11 APP000064_030.
 12 We know the detail, I think, that on 9 November,
 13 RS-C1, who at that point was about 12 and a half, left
 14 the school site with RS-C2, who was 9, nearly 10, and
 15 RS-C3, who had just turned 11, and they were gone all
 16 day, I think. Nothing came to light immediately after
 17 that absconding, did it?
 18 **A. No.**
 19 Q. But we see here from your witness statement that this
 20 came to light on 22 November, when a member of your
 21 school team overheard RS-C4 accusing RS-C1 of fucking
 22 RS-C3, and RS-C2 agreeing with this. So there is an
 23 overheard conversation, if you like. I think what is
 24 described in some of the paperwork is the children are
 25 in one of the toilets and RS-C1 knows there's a member

Page 55

1 deliberately because of these absconsions, he's gone
 2 back to school?
 3 **A. Yes.**
 4 Q. Again, we see, on 9 November, he's absconded again,
 5 again with RS-C2 and RS-C3, and that's when we know that
 6 the events which later formed the police investigation
 7 took place.
 8 **A. Yes.**
 9 Q. Can you think of any reason why, having decided to
 10 educate him separately, he was --
 11 **A. I think we just -- we probably -- we would want a child
 12 to be in school if at all possible. I clearly see it
 13 was a mistake now, but that would be the thinking behind
 14 it at the time.**
 15 Q. Again, we know that he -- there was sexually abusive
 16 behaviour, so C4 talks about -- the way he puts it when
 17 this disclosure was later made is that C1 did to him
 18 what he did to C2. So we know that that was essentially
 19 he was anally raped, he said "That happened to me", and
 20 that was on 1 November, I think?
 21 **A. Mmm-hmm.**
 22 MS BICARREGUI: Again, we know what happened on 9 November.
 23 Chair, I just notice the time. I'm moving on to
 24 another topic. I wonder whether it might be sensible to
 25 have a break now?

Page 54

1 of staff outside but the others don't, so this
 2 conversation comes to light.
 3 At that point, the member of staff reports this,
 4 doesn't she, internally to two other members of staff?
 5 **A. Yes.**
 6 Q. But nothing is done on that evening?
 7 **A. Mmm-hmm.**
 8 Q. Is that right?
 9 **A. No.**
 10 Q. Then, on the next day, two members of staff interview
 11 the children. Is that right?
 12 **A. Yes.**
 13 Q. I believe they interview them together and then they
 14 take them separately when they realise that there is
 15 more than one incident potentially being discussed?
 16 **A. Yes.**
 17 Q. The disclosure, I think we know -- yesterday, we saw how
 18 it was described by RS-C2 to the police at the time,
 19 that it involved a series of sexualised behaviour,
 20 including anal rape?
 21 **A. Yes.**
 22 Q. We know from the police transcripts that RS-C2 certainly
 23 described it as being nonconsensual?
 24 **A. Yes.**
 25 Q. I think in your witness statement you accept that RS-C1

Page 56

1 was the perpetrator?
 2 **A. Yes.**
 3 Q. In the sense that there is a perpetrator in this, and
 4 that he was older and physically stronger?
 5 **A. Yes.**
 6 Q. 22 November, it is overheard. 23 November, the
 7 interviews take place. Then I understand there was some
 8 delay while some notes were typed up. Is that right?
 9 **A. That's right, yes.**
 10 Q. So the referral is made to children's social services on
 11 24 November?
 12 **A. Yes.**
 13 Q. I think you accept that the two members of staff
 14 shouldn't have interviewed the children now?
 15 **A. I do. They shouldn't have.**
 16 Q. You accept that that wasn't in line with good practice
 17 or even --
 18 **A. Or our policy or ...**
 19 Q. Or your policy at the time. Ralph, if we could go to
 20 CCC000007_089. If you go to the very bottom paragraph
 21 and highlight that for me. Thank you. This is part --
 22 I may get this wrong, but certainly this is a record of
 23 a discussion at time, and it says:
 24 "Mick has spoken to the Crown Prosecution Service
 25 who have advised that they will be taking no further

Page 57

1 think, in this scenario?
 2 **A. I think it should have been as soon as the person**
 3 **overheard them in the toilets.**
 4 Q. Would that be what --
 5 **A. That would be now, and it was the policy at the time.**
 6 Q. There was a meeting held, I think, after this, wasn't
 7 there, with the --
 8 **A. Yes.**
 9 Q. -- local social services department --
 10 **A. Yes.**
 11 Q. -- and the police?
 12 **A. Yes.**
 13 Q. Ralph, if you could get up APP000020. It is right to
 14 say, I think, there was an amount of disquiet at the way
 15 that things had been handled?
 16 **A. Yes, from myself as well.**
 17 Q. So the first point of the meeting is:
 18 "Concerns that the children had been questioned by
 19 Appletree staff ..."
 20 Do you see that? And the staff identified how
 21 difficult they had found it to remember the issues from
 22 training. Was this something that you thought about?
 23 Is there a way that training can be sort of better
 24 embedded, if you like?
 25 **A. Yes, we now not only deliver the training, but we also**

Page 59

1 action on this occasion. This is because C1 has
 2 admitted to the offences, there are discrepancies in the
 3 accounts given, the young ages of the children involved,
 4 the damaged background of the pupils involved, the
 5 school 'interviewing' the pupils and contaminating the
 6 evidence. The CPS indicated that because of the way the
 7 school gathered the evidence from the pupils, the court
 8 would have thrown it out anyway if it had gone that
 9 far."
 10 So the repercussions were that this was problematic
 11 in terms of the evidence?
 12 **A. Mmm.**
 13 Q. And the staff at that point -- these were senior members
 14 of staff, as I understand it?
 15 **A. Yes.**
 16 Q. So they had had training?
 17 **A. They had.**
 18 Q. And they knew that this wasn't appropriate. What was
 19 done after this to ensure that this didn't happen again?
 20 **A. I put out -- I can't remember whether it was a memo, but**
 21 **I basically got all of the staff members informed that**
 22 **they should absolutely not have interviewed children**
 23 **once they have disclosed. They need to tell them that**
 24 **they need to tell somebody and they need to stop them.**
 25 Q. Looking back, where was the point of referral, do you

Page 58

1 **do questions to check the understanding of the training.**
 2 Q. Are there scenarios that are discussed?
 3 **A. Yes.**
 4 Q. Does this, in fact, form the basis of a scenario that
 5 can be discussed internally as something which went
 6 wrong?
 7 **A. Yes, we do, sometimes, yes.**
 8 Q. Can we go to the next page, _002. At the bottom,
 9 point 3, we see here that this is about the history of
 10 sexualised behaviours of RS-C1 and the risk assessment
 11 being in place. It says in the middle:
 12 "In Appletree's view, his sexual activity took place
 13 when he has absconded."
 14 Do you see that?
 15 **A. Yes.**
 16 Q. The police then go on to explain to you that the video
 17 evidence indicates that there have been sexual acts
 18 within the school.
 19 **A. Mmm-hmm.**
 20 Q. The police agreed to let you have the relevant
 21 information. Was the detail of that information passed
 22 on to you?
 23 **A. No. No, it wasn't.**
 24 Q. Did you ask the police, after this, to let you have the
 25 information so that you could take action about the

Page 60

1 children?

2 **A. I don't recall -- I think I had a conversation with the**

3 **safeguarding team about it.**

4 Q. Because it was clear, I think, from this meeting, wasn't

5 it, that the police certainly had some information

6 about --

7 **A. Yes.**

8 Q. Was it your view that you didn't follow up on it because

9 RS-C1 had left or was there another reason why this

10 wasn't followed up?

11 **A. I don't recall the reasoning at the time.**

12 Q. So at this point --

13 **A. But we had put in place every action that we could**

14 **possibly think of to prevent -- as I say, increasing**

15 **staff, having lights coming on and alarms, yeah.**

16 Q. What support was put in place for RS-C2, RS-C3, RS-C4

17 and RS-C5 after this incident?

18 **A. They were either in therapy or they were referred --**

19 **they were offered therapy from the NSPCC, who, as people**

20 **know, would be seen as the experts in child abuse.**

21 Q. Most of those children were having therapy anyway, would

22 that be right, because it is part of the three things

23 which you described at the beginning?

24 **A. Yes.**

25 Q. So was anything additional thought of? Because if you

Page 61

1 **respects, we are the specialists in this area anyway.**

2 **Yes, possibly -- and I think -- I mean, this is more our**

3 **practice now, we use advocates a lot more now for the**

4 **children, so possibly that could have helped.**

5 Q. When you say you use advocates, what does that involve?

6 **A. We ask the NYAS, National Youth Advocacy Service, when**

7 **we think there's a difficult situation, to come and**

8 **support the children with their voice.**

9 Q. So someone would have been invited down to talk to

10 RS-C2 --

11 **A. Yes.**

12 Q. -- and then to explain his concerns and worries --

13 **A. Yes, I think that might have helped.**

14 Q. After this event, which we knew happened when the

15 children absconded, there were still issues around

16 absconding at Appletree, weren't there?

17 **A. Mmm-hmm.**

18 Q. I think in -- it is about paragraph 131 of your

19 statement, you say that there were 11 absconding

20 incidents in the year following the disclosure?

21 **A. There were.**

22 Q. In 2013, the issue of children running away prompted the

23 Department for Education to order an emergency

24 inspection, didn't it?

25 **A. That's right, yes.**

Page 63

1 are a young child, I imagine if you are already having

2 therapy, it is difficult to see that as something which

3 is a support after the event?

4 **A. Apart from the people who were looking after them, we**

5 **would have talked to them about it and tried to be**

6 **supportive, and very much be along the lines that, you**

7 **know, it wasn't their fault and they're not to feel bad**

8 **about it and to help them to move on.**

9 Q. You have heard RS-C2's evidence, and he felt that he

10 didn't know what happened, he didn't feel that any

11 support was given. That's not your recollection or --

12 **A. We tried.**

13 Q. Was anything specifically told to the children about the

14 fact that RS-C1 was being moved?

15 **A. I think we did tell them that he was being moved because**

16 **he hadn't been safe around them.**

17 Q. You were, I think, privy to some of the details of what

18 had happened to RS-C2. You certainly knew that he

19 was -- you felt that he was the victim, if you like, in

20 the scenario?

21 **A. Yes.**

22 Q. Is there anything now, you think, that should have been

23 done differently or better in respect of supporting him

24 and the other children after?

25 **A. I think it is quite difficult, because, in some**

Page 62

1 Q. That was into both the use of restraint, as I understand

2 it, which is why I wanted to come back to touch on that

3 issue --

4 **A. Yes, that's right.**

5 Q. -- and the issue of pupils running off and going

6 missing?

7 **A. Yes.**

8 Q. My understanding is that was prompted by a high level of

9 concern about one pupil in particular going to the

10 railway line; is that right?

11 **A. Yes.**

12 Q. If we could have up APP000057. So this, as I understand

13 it, is the result of that inspection. At the top, it

14 says:

15 "... followed concerns expressed in a complaint

16 about restraint of pupils; and [this particular]

17 incident ... where a child absconded ... and was put at

18 risk of serious harm."

19 This, again, is 2013. At this point, there are, as

20 we understand it, still issues around restraint. Ralph,

21 if we could go down that page, I'm not going to read

22 this out in detail, but there are good and bad points in

23 this summary. For example, it shows that staff showed

24 a very sound understanding of the training and good

25 awareness of the school's policies -- do you see

Page 64

1 that? -- and become increasingly more skilled. But if
 2 we go over the page, please, Ralph, to the next page,
 3 I don't want to be unfair, but I'm not going to read all
 4 of this out. There are a number of points there which
 5 are -- including that they say sufficient justification
 6 for the use of restraint. But then they say, right at
 7 the bottom, that there are grey areas:
 8 "There is no clear direction given to all staff on
 9 what to do if a pupil exits the building or grounds and
 10 whether to intervene more decisively to safeguard pupils
 11 from imminent harm. The principal said that the school
 12 would look at this urgently."
 13 Again, in a sense, this is the issue, if you like,
 14 of children leaving the site and how you deal with that
 15 as a school?
 16 **A. Yes, as I recollect, there was some debate. One of**
 17 **the things about being a children's home and a school is**
 18 **you have two sets of Ofsted inspections. There was**
 19 **a debate going on about whether it was enough**
 20 **justification, if a child left the grounds, to**
 21 **physically hold them and escort them back or not.**
 22 **I think that was the issue we needed to resolve.**
 23 Q. Ralph, if we could go down further on that page, then
 24 this is the incident about the absconding, isn't it, and
 25 how this was handled and recorded. I think it is fair

Page 65

1 **A. That's correct, yes.**
 2 Q. -- features of the site. I think, as a result of this
 3 intervention, you raised the height of the fences?
 4 **A. Yes, we did. We wanted it to look like a home, but we**
 5 **did raise the fences and we put up ivy and bushes and**
 6 **things, and I think that was very helpful, so it didn't**
 7 **look like a prison.**
 8 Q. At this point -- so there's been the emergency
 9 inspection, the independent review, physical changes to
 10 the site. At that point, the number of absconding
 11 incidents fell dramatically, didn't they?
 12 **A. Yes, it did. We also did a lot of work on our**
 13 **relationships with the children and them understanding**
 14 **how very horrible it is when we don't know where they**
 15 **are. I think the other issue in amongst all this, is**
 16 **it's -- when you -- I always feel sick to my stomach**
 17 **when there's a child missing. When we are watching**
 18 **them, the difficulty is, if you run after them, they may**
 19 **run to the danger, so it's always -- it's going to be**
 20 **a difficult judgment call. But we have improved and we**
 21 **haven't had children running off, so that's good.**
 22 Q. I suppose the question is whether or not these physical
 23 changes couldn't have happened a lot sooner?
 24 **A. I think the reason they didn't was because we didn't**
 25 **want it to look like a prison.**

Page 67

1 to say here that this is far more strongly worded, if
 2 you like, in terms of the problems that they saw around
 3 children leaving the site, and they say that a pupil was
 4 put at risk of serious harm or death and the pupils'
 5 behaviour didn't protect them adequately:
 6 "Inspectors do not agree with the school that this
 7 is an isolated example of where implementation of
 8 the behaviour policy is ineffective."
 9 They talk about your feature of watching from
 10 a distance. Essentially, there were concerns, weren't
 11 there, about the ability of pupils to leave the school
 12 site?
 13 **A. Yes.**
 14 Q. Again, as a point of reference, this is 2013?
 15 **A. Yes.**
 16 Q. As a result of this, you had to draw up an action plan;
 17 is that right?
 18 **A. Yes.**
 19 Q. If we could get up APP000059_002. Oh, it's frozen.
 20 **A. Is that the action plan?**
 21 Q. This is the action plan. I think you commissioned an
 22 independent review at this point.
 23 **A. We did.**
 24 Q. Part of that independent review was also around the
 25 physical --

Page 66

1 Q. Even when there were these serious incidents of
 2 absconding, it was only really this inspection, I think,
 3 and the independent review which prompted this; is that
 4 right?
 5 **A. Yes, that's right.**
 6 Q. We have just looked at the emergency Ofsted. Can you
 7 just update the panel, tell -- you have two schools and
 8 three children's homes. What are the current Ofsted
 9 judgments on those?
 10 **A. Appletree School is "good" overall and "outstanding" for**
 11 **pupil welfare and behaviour. Fell House School is**
 12 **"good" overall and "outstanding" for pupil welfare and**
 13 **behaviour. Willow Bank, which is one of the children's**
 14 **homes, has "good" in all areas. Fell House has**
 15 **"outstanding" in all areas. Appletree has "good"**
 16 **overall. The reason it requires improvement is because**
 17 **we needed to appoint a registered manager in each**
 18 **management, but that has now been done.**
 19 Q. So that's been actioned?
 20 **A. Yes.**
 21 Q. Just to be clear, because you are a 52-week placement
 22 which we had described yesterday by Dame Christine
 23 Lenehan, you are subject to the Children's Home
 24 Standards and the Quality Standards?
 25 **A. Yes, the Quality Standards.**

Page 68

1 Q. You're inspected once a year?
 2 **A. Yes, up until -- it was twice a year up until a year and**
 3 **a half ago.**
 4 Q. That's for the children's homes and then it is --
 5 **A. And it is three years for the schools.**
 6 Q. I'd like to look briefly at the suspending of RS-C1's
 7 placement. I think I can probably deal with this
 8 without bringing up the document. There was a report
 9 written in January 2007 by the NSPCC. Do you remember
 10 that? It was as a result of RS-C1 leaving and advice
 11 given to his local authority about, amongst other
 12 things, his placement. It makes the point that he had
 13 been immediately removed from Appletree Treatment Centre
 14 following his police interview --
 15 **A. Mmm-hmm.**
 16 Q. -- on 29 November?
 17 **A. Mmm-hmm.**
 18 Q. My understanding of that police interview was that he
 19 was interviewed under caution?
 20 **A. Mmm-hmm.**
 21 Q. He was interviewed as a suspect, essentially.
 22 **A. Yes.**
 23 Q. Is that your --
 24 **A. Yes, I think so.**
 25 Q. So it must have been quite a frightening experience for

Page 69

1 about RS-C1's placement after he left Appletree?
 2 **A. Yes.**
 3 Q. Then, secondly, I would like to talk to you about some
 4 of your concerns about the children who have been at
 5 Appletree who have made allegations of sexual abuse
 6 which haven't been dealt with or have been dealt with
 7 but where there have been problems.
 8 You gave very detailed advice, I think it is fair to
 9 say, to RS-C1's social worker about the type of
 10 placement that he would need?
 11 **A. Yes.**
 12 Q. Ralph, are we able to get that up? No, still not.
 13 I think if I describe it, it is at least probably a page
 14 or a two-page document where you go through precisely
 15 what type of placement. If you recall that, could you
 16 explain to us what you --
 17 **A. Could I refer to the bundle, since we haven't got it on**
 18 **the screen?**
 19 Q. Yes, you could. It is the one that I haven't mentioned
 20 the tab for, but let me find it for you. It is tab 33,
 21 and it is page 5 of that. Chair and panel, I'm afraid
 22 you won't be able to see this, but we can make it
 23 available afterwards.
 24 **A. My tab 33 isn't that one.**
 25 Q. It is page 5 of it.

Page 71

1 him on the 29th?
 2 **A. Mmm-hmm.**
 3 Q. Was it right, do you think, that he should have to leave
 4 immediately, if you like, from the police station? What
 5 was your thinking around that?
 6 **A. I think at the time -- it's difficult to recall.**
 7 **I think at the time -- I'm not sure, but we were worried**
 8 **that the local authority in Bradford were not going to**
 9 **take [redacted] and put him somewhere else. They were**
 10 **going to leave him with us.**
 11 MS BICARREGUI: Can we cut the feed? There's been a breach
 12 of confidentiality rule. There is a restriction order
 13 in place that covers this, thank you.
 14 RS-C1.
 15 **A. I'm so sorry. I'm so sorry.**
 16 Q. It's fine. They will cut the feed.
 17 The reason I ask, it's a bit of a shocking thing to
 18 be taken to a police station and then to be moved from
 19 there to another placement. I imagine you did give it
 20 some thought at the time, but now, with hindsight, would
 21 you have changed that or what would you have done about
 22 that?
 23 **A. I think, with hindsight, he should probably have come**
 24 **back to us and then moved from us.**
 25 Q. I would like to talk to you about some concerns you have

Page 70

1 **A. I only have one page in my 33.**
 2 Q. The URN is 000003_005. I have done the wrong one,
 3 I have given you 33. Apologies. The URN is 000003.
 4 I'm going to describe it and then you can update it when
 5 we get some more information on it.
 6 **A. Yes.**
 7 Q. But you essentially said, I think, that you felt that
 8 the time had come where RS-C1 needed a secure placement.
 9 **A. Yes.**
 10 Q. Why did you say that?
 11 **A. Because I don't think -- I think he was going to run off**
 12 **from wherever he -- oh, great, thank you. I think he**
 13 **was going to run off from wherever he was placed --**
 14 **well, I think it was highly likely he would do sexual**
 15 **acts with other children and I wanted that to stop.**
 16 Q. You also set out in some detail the therapeutic needs?
 17 **A. Yes, because I was -- I was very fond of him and we**
 18 **wanted him to get the help that we believed he needed.**
 19 **So we wanted him to go to a secure place that was expert**
 20 **on helping children with sexually harmful behaviour. So**
 21 **we thought ...**
 22 Q. Also, you were very --
 23 **A. Yes, I was very worried because he was very vulnerable**
 24 **as well, he was very vulnerable to being sexually**
 25 **exploited by others as well as perpetrating acts.**

Page 72

1 Q. You were very emphatic, I think, that the disclosures
 2 he'd made about the abuse that he had -- the allegations
 3 he'd made about abuse by his father needed to be
 4 investigated?
 5 **A. Yes.**
 6 Q. From what you know, Mrs Davies, about what happened
 7 next, I think you visited RS-C1 at his next placement?
 8 **A. Mmm.**
 9 Q. How much of what you were recommending was followed
 10 through?
 11 **A. None of it, I don't think.**
 12 Q. What did you find when you went to visit RS-C1?
 13 **A. It was very sad. He was in a room with a bed without**
 14 **a sheet on it. He was crying. It didn't feel like it**
 15 **was a very supportive place.**
 16 Q. Were you aware of any therapeutic involvement?
 17 **A. I don't think he had any therapy.**
 18 Q. As well as this recommendation from you, there was also
 19 the document from his therapist at the NSPCC, wasn't
 20 there?
 21 **A. Yes.**
 22 Q. Ralph, if we could go to BFC000073_006. At the bottom
 23 there, we see "Recommendations". I don't know if we can
 24 get_006 and _007 up together. Again, these were very
 25 detailed recommendations. I don't know if you recall

Page 73

1 one of the documents -- about who is working with RS-C1.
 2 With your experience of children who have been
 3 abused, what do you think the effect of this would have
 4 been on RS-C1?
 5 **A. I think he would only have got worse.**
 6 Q. Again, you're concerned, I think, from your experience
 7 that -- so you say that there are at least 100 children
 8 who you have helped who have been sexually abused or
 9 there have been concerns about sexual abuse and details
 10 have been passed on of that activity. We are talking
 11 here, I think, aren't we, about adults abusing children?
 12 **A. Yes, and not at Appletree.**
 13 Q. Sorry, to be clear, we don't have any -- there's been
 14 no-one disciplined and no convictions of any adult at
 15 Appletree?
 16 **A. No.**
 17 Q. We are talking about, usually, the children's home lives
 18 giving rise to allegations against --
 19 **A. Yes, that would usually be the case.**
 20 Q. I just want to look, then, at the allegation that RS-C1
 21 made while he was with you. So he made a disclosure
 22 that he had been sexually abused by his father, didn't
 23 he?
 24 **A. Yes.**
 25 Q. That was in October 2006?

Page 75

1 this report?
 2 **A. It's not come on the screen.**
 3 Q. No.
 4 **A. I do recall the report though. We were very concerned**
 5 **that he get what he needed.**
 6 Q. I know that you have now seen some documentation about
 7 what happened when RS-C1 went to the new placements.
 8 **A. Yes.**
 9 Q. You were aware that he went missing, so he was
 10 absconding again, I think we know, on 2 December and on
 11 3 December. He was securely accommodated eventually, as
 12 we know, but only for a month, in September 2007. What
 13 are your views on that, both the length of it and --
 14 **A. Well, the work that [redacted] needed would not have**
 15 **been done in a month, I'm absolutely certain of it.**
 16 Q. Again, we now have the NSPCC report up. What's very
 17 clear, if we look at point 4, which is _007, the
 18 placement also needs to be with a therapeutic package.
 19 We see that. So it is very clear, both from your
 20 recommendation and from the recommendation of the NSPCC,
 21 that he needs some sort of therapeutic package. I know
 22 that you don't have personal knowledge of this, but it
 23 is clear from documents that we have later that there
 24 was no therapeutic function at his first placement and,
 25 even in July 2007, there's confusion -- I'm quoting from

Page 74

1 **A. Mmm-hmm.**
 2 Q. We don't need to go it, I don't think, but that was
 3 a disclosure which was described by the NSPCC as both
 4 detailed and explicit?
 5 **A. Yes.**
 6 Q. In other words, it wasn't in generalities?
 7 **A. No.**
 8 Q. He described certain things happening and certain people
 9 being present. When you told his social worker about
 10 this -- was it you, I think, who made the phone call?
 11 **A. Yes, I made the referral to safeguarding and to the**
 12 **social worker.**
 13 Q. What happened?
 14 **A. As far as I'm aware, nothing happened.**
 15 Q. So there was no strategy meeting, as far as you're
 16 aware?
 17 **A. No.**
 18 Q. What would you expect --
 19 **A. I made the referral to Cumbria Safeguarding, but they**
 20 **would have then made the referral to Bradford.**
 21 Q. The papers show, I think, that both -- and then I think
 22 Cumbria write to Bradford and say, "We think that you
 23 should be dealing with this"?
 24 **A. Yes.**
 25 Q. How quickly, in your experience, should this type of

Page 76

1 thing be dealt with?
 2 **A. Within a week we would have a strategy meeting,**
 3 **commonly.**
 4 Q. Again, to be clear, it was still the case, wasn't it, in
 5 2006/2007 that strategy meetings were being held about
 6 this type of issue?
 7 **A. Yes.**
 8 Q. But there was no referral, immediate referral, and no
 9 strategy meeting that you're aware of?
 10 **A. No.**
 11 Q. I think you had a telephone conversation on
 12 16 November -- Ralph, if we could get up BFC000043_007.
 13 This, again, is the record that we have seen previously?
 14 **A. Yes.**
 15 Q. This is, I believe, on 16 November, and it is
 16 a discussion where it is said that he's been fine most
 17 of this week, but the disclosures about the alleged
 18 sexual abuse by his father, you feel that you're not
 19 taking it seriously, and it's said that it had been
 20 discussed and that it looks like it had been dealt with
 21 at the time by the police, but they could not find
 22 enough information from the file to support this. It's
 23 also mentioned that RS-C1's father had a conviction of
 24 indecent assault. So, at that point, it's said that
 25 child protection would be contacted to discuss how to

Page 77

1 **devastating when nothing, from a child's point of view,**
 2 **happens.**
 3 Q. From your witness statement, I think it is clear that
 4 you think that there are a number of occasions when
 5 things aren't done and cases don't proceed; is that
 6 right?
 7 **A. Yes, I think what happens is they're deemed to be**
 8 **unreliable because of their traumatised background, but**
 9 **that's a -- I think we need to try and find a way that**
 10 **we can get evidence from children who have been**
 11 **traumatised.**
 12 Q. Lastly, I would just like to touch on a few general
 13 issues which the inquiry is considering this week.
 14 **A. Yes.**
 15 Q. The first one is the issue of sex and relationships
 16 education.
 17 **A. Mmm-hmm.**
 18 Q. Now, it seems that this is likely to be a particularly
 19 difficult issue to deal with in your environment?
 20 **A. Yes.**
 21 Q. But, nevertheless, all the more important for that?
 22 **A. Absolutely.**
 23 Q. If you could explain to us what happens in relation --
 24 so you're in a primary setting. What happens in
 25 relation to sex and relationship education?

Page 79

1 proceed with this. So you are, as I understand this
 2 record, prompting action to be taken at this point?
 3 **A. Yes.**
 4 Q. So nothing had been done by 16 November.
 5 **A. Mmm-hmm.**
 6 Q. I think, as you are then aware, RS-C1 didn't actually
 7 get interviewed by the police in relation to this, but
 8 a decision was taken in January 2007 about that.
 9 I think in your witness statement, you are concerned
 10 that RS-C1 had complained about abuse at the previous
 11 care home and nothing appeared to have been done, and he
 12 had complained about abuse by his father, and nothing
 13 had been done. What effect do you think that had on
 14 him?
 15 **A. I think it was at that point he felt that, well,**
 16 **nothing -- you can get away with it, so I'll run off and**
 17 **do it or do it in bedrooms.**
 18 Q. So you think that had a sort of trigger effect?
 19 **A. I think so.**
 20 Q. Why do you think that?
 21 **A. Because it's just -- it is not just with the case of C1.**
 22 **In all the cases when the children disclose, they**
 23 **think -- or they hope that something is going to be**
 24 **done, which means that the people who have done these**
 25 **things to them are going to get stopped, and it's**

Page 78

1 **A. Well, we do a lot of work on relationships anyway**
 2 **throughout -- in the homes and in the schools and on**
 3 **what is and isn't okay in a relationship: building**
 4 **friends, trust, that kind of thing. But then we do an**
 5 **individual programme for each child that helps look at**
 6 **the sex side of things, and that's delivered on -- so**
 7 **the child is on their own, so the other children**
 8 **don't -- can't hear what's going to be said, and there's**
 9 **a person that we feel the child has got the best**
 10 **relationship with them and then the health coordinator**
 11 **goes through, it's an NSPCC programme about sex.**
 12 Q. So you're using an NSPCC programme but you're tailoring
 13 it to some of the children?
 14 **A. Yes.**
 15 Q. So it is clear then, in your mind, that the children do
 16 need to have a curriculum which focuses on some of these
 17 issues?
 18 **A. Yes.**
 19 Q. Also, just briefly, there is a system which is called
 20 "neutral notification" which I know we have asked you
 21 about?
 22 **A. Yes.**
 23 Q. That's a system where all types of concern which are
 24 below the threshold of reporting to the local authority
 25 designated officer are reported. So a staff member will

Page 80

<p>1 say, "This happened to me. I don't want it to be 2 misinterpreted". What are your views on that kind of 3 system? 4 A. Yeah, I think neutral reporting is really good. 5 Q. Is that something which you have in place at Appletree 6 at the moment? 7 A. Yes. Yes. Then we can look -- because that's the other 8 thing I say to people when they join us, you know, 9 "You've got to say, because it might be that you hold 10 one part of the picture but somebody else has another 11 part and, if we put them together, we can see something 12 that's concerning". 13 Q. In your witness statement, it appears to be that that's 14 in relation to the children primarily, the children's 15 sexualised behaviour? 16 A. Oh, no, we also do it for adults. Anything we are 17 worried about at all will be recorded. 18 Q. Again, just to be clear about your evidence earlier, is 19 that what is looked at monthly, or that was just 20 restraints, or is that everything? 21 A. No, no, we do safeguarding reviews as well for that, 22 yes. 23 Q. There would be the same concerns then about the 24 oversight of the more senior management, because 25 I understand it is the senior management who scrutinise</p> <p style="text-align: center;">Page 81</p>	<p>1 that? 2 A. Yes. 3 Q. Is that something you're going to be thinking about? 4 A. Yes. 5 Q. How there could be a level of oversight of the people -- 6 A. Actually, when I have reflected in the break, I realised 7 we do have a plan that would address that. 8 Q. Are you able to share with us what that plan is? 9 A. It would introduce another level of scrutiny from -- 10 Q. I think it is important, from everything that the 11 inquiry work has been seeing -- Dame Christine Lenehan 12 described it as shining a light into places. 13 A. Yes. 14 Q. Getting properly independent views on what's happening. 15 I think it is fair to say that that isn't happening 16 or -- 17 A. I think we could do it more rigorously, definitely. 18 Q. So that's something that you will be considering 19 afterwards? 20 A. Yes. 21 MS BICARREGUI: Thank you. I don't have any further 22 questions for you, Mrs Davies. I don't know if the 23 chair and panel have any questions. 24 THE CHAIR: No, we have no questions. Thank you very much, 25 Mrs Davies.</p> <p style="text-align: center;">Page 82</p>
<p>1 (The witness withdrew) 2 MS BICARREGUI: Chair and panel, we will now be hearing from 3 Ms Curtis, who is from -- yes, I think she is in the 4 room. 5 MS RACHEL CURTIS (sworn) 6 Examination by MS BICARREGUI 7 MS BICARREGUI: I've just got a few things to say. You may 8 have heard me say them already this morning, but just 9 bear with me. This isn't a memory test, Ms Curtis. If 10 you need to refer to anything, there is a bundle of 11 papers in front of you, and hopefully we will be able to 12 bring it up on screen, if necessary. 13 Secondly, we can stop if you need to stop, so just 14 let me know. Again, importantly, we are going to be 15 talking about, in particular, one child during your 16 evidence, and it is important that we don't mention that 17 child's name. So both you and I will have to keep to 18 "RS-C1", and I know that you are aware of that. 19 Can I ask you to turn to your statement, which is in 20 tab 1 of the file of paper. Chair and panel, this is at 21 A/3 of core bundle E. Your signature is redacted, but 22 can you confirm that you did indeed sign that statement? 23 A. I did. 24 Q. Is it true, to the best of your knowledge and belief? 25 A. It is true, to the best of my knowledge.</p> <p style="text-align: center;">Page 83</p>	<p>1 Q. I would like to start by asking you about your role, so 2 you are, as I understand it, the service manager in the 3 through care team in Bradford Council? 4 A. I am, one of the service managers. 5 Q. One of the service managers. Just for the benefit of 6 everybody, that means that you are the council who is 7 responsible for placing RS-C1 in Appletree School? 8 A. Yes. 9 Q. I think that post, the service manager in the through 10 care team, you have held that since 2017; is that right? 11 A. I have, yes. 12 Q. But, actually, you have been in Bradford Council for 13 a while. Can you tell us how long? 14 A. I started working in Bradford in 1988 as a social 15 worker. 16 Q. I have seen your name in some of the chronology 17 documents -- 18 A. Yes. 19 Q. -- but only sporadically in relation to the placement of 20 RS-C1. 21 A. Yes, I was what was called a principal care manager. 22 I was -- started in October/November 2005 as a principal 23 care manager for the looked-after children team. I was 24 an acting post, then made permanent in, I think, 2007 25 and RS-C1 transferred into that team in that period.</p> <p style="text-align: center;">Page 84</p>

1 **I can't remember exactly when.**
 2 Q. Your name suddenly appears, I think, just possibly after
 3 he leaves?
 4 **A. I think it was after he moved from Appletree.**
 5 Q. Can you describe for a layman what it would mean that
 6 you were -- probably at that period, not so much your
 7 job now, but what a service manager of the looked-after
 8 children team --
 9 **A. The looked-after children team was a team of five social**
 10 **work teams working with children in care whose -- in**
 11 **Bradford, who -- aged around 11-plus. We worked with**
 12 **older children in care, up until around -- well, at that**
 13 **time, until they were 18, when they moved to leaving**
 14 **care services.**
 15 Q. So you have got a lot of experience of working with
 16 children in care --
 17 **A. Yes.**
 18 Q. -- and issues to do with their placements?
 19 **A. Yes.**
 20 Q. And some personal knowledge, although not much, of this
 21 case?
 22 **A. Very little -- when I looked at the -- started looking**
 23 **at this, I realised I had very little personal knowledge**
 24 **of this particular child. I have a lot of knowledge of**
 25 **a lot of children, but I think because of the time that**

Page 85

1 **they're placed externally.**
 2 Q. You talk about difficulties in actually supporting the
 3 child?
 4 **A. Yes, any visit has to be planned. It is hard to be**
 5 **spontaneous when visiting children when it is**
 6 **a two-plus-hour journey away.**
 7 Q. When you say spontaneous, I imagine, if a child was on
 8 a telephone call with you in some distress, or something
 9 of that nature, that wouldn't be something that you
 10 could be very reactive to?
 11 **A. It's hard to drop everything and go and visit a child,**
 12 **whereas, if they live within the local authority area or**
 13 **just on the edges, it's quick to go and see the child.**
 14 Q. Would you say, then, that inevitably -- or often, maybe
 15 not inevitably, visits are less frequent?
 16 **A. I -- now, we are very thorough in -- and have very sort**
 17 **of strict systems of checking that children have been**
 18 **visited and seen regularly, but historically, that**
 19 **wasn't the case, so visits could be less frequent and we**
 20 **didn't have the same scrutiny, I don't think, about**
 21 **confirming that children had been seen.**
 22 **Within Bradford, we have an understanding that every**
 23 **child is visited every 28 days now, but that wasn't in**
 24 **place in 2005/2006.**
 25 Q. Is that something that you're able to meet? We heard

Page 87

1 **I became involved, it was sort of later in his life.**
 2 Q. Have you been able to read the documents that have been
 3 sent?
 4 **A. Yes, I have read everything.**
 5 Q. So you will be able to help us?
 6 **A. Yes.**
 7 Q. First of all, to give this some context, RS-C1 was
 8 placed some distance away from Bradford; that would be
 9 right?
 10 **A. Yes.**
 11 Q. It is about a 60-mile distance --
 12 **A. It's a two-hour drive. I would say it's a two-hour**
 13 **drive.**
 14 Q. I'm going to start, if you like, at the end of your
 15 witness statement where you talk about some of
 16 the problems that occur when a child is placed outside
 17 of the local area. I could get that up, if you like.
 18 It is BFC000087?
 19 **A. I have got it. I think -- when we place children out of**
 20 **our local area, we don't know the local area, we don't**
 21 **know the geography of the area, we don't -- there is no**
 22 **relationships with local agencies such as education,**
 23 **health, CAMHS is often a significant issue, police**
 24 **relationships in more recent years. One of the biggest**
 25 **issues is accessing local resources for children when**

Page 86

1 evidence yesterday from Dame Christine Lenehan, and this
 2 was one thing that she thought was incredibly important.
 3 Her point was that children who are placed out of their
 4 local authority who also have special educational needs
 5 or disabilities are supremely vulnerable, if you like.
 6 Her feeling was that local authorities weren't always
 7 able or making the visits or sufficient visits to
 8 children. How are you making sure that they are?
 9 **A. We get reports run from our computer systems now that**
 10 **tell us that children have been visited and, if they**
 11 **haven't been visited, people in my role, as service**
 12 **managers, have to find out why and the reasons for that.**
 13 **So we are much more rigorous than we used to be about**
 14 **that. We are now working to try and keep our children**
 15 **locally and putting resources in to build the sort of**
 16 **capacity of local provision to care for those children,**
 17 **because of recognition that moving them out of**
 18 **the authority is often not conducive to their well-being**
 19 **and their care.**
 20 Q. If I can try and summarise, within Bradford, you feel
 21 that the visiting element has got much more rigorous and
 22 is more carefully monitored?
 23 **A. Yes.**
 24 Q. But some of the things which you describe, some of
 25 the difficulties about placing a child out of placement,

Page 88

1 they still persist?
 2 **A. Absolutely.**
 3 Q. The spontaneity, the distance --
 4 **A. The spontaneity, and the relationships with local**
 5 **providers and ensuring services can be put in place to**
 6 **support the child.**
 7 Q. I have described that we are going to be looking at
 8 RS-C1. I don't want to go into too much detail again --
 9 I said that earlier today with Mrs Davies -- but we are
 10 talking about a young child who had a very disruptive
 11 early life, didn't he?
 12 **A. Yes.**
 13 Q. That was an early life which included domestic violence
 14 and sexual abuse. I think the paperwork is clear he was
 15 taken into care, so he was in the care of your council
 16 from five years old?
 17 **A. Yes, my understanding is he became looked after around**
 18 **the age of 5, but there had been some periods of being**
 19 **looked after prior to then and going home.**
 20 Q. Some attempts at foster placements and --
 21 **A. Once he became looked after, I believe he had at least**
 22 **three foster placements before he was placed in the**
 23 **children's home.**
 24 Q. We heard there were a number of quite serious concerns
 25 about RS-C1's sexualised behaviour before he was placed

Page 89

1 We are talking about a 10-year-old child at this
 2 point, aren't we?
 3 **A. Yes.**
 4 Q. What was the thinking within the council about
 5 a placement for RS-C1 at this point?
 6 **A. At that point, my understanding, he was within**
 7 **a children's home in Bradford where it only cared for**
 8 **children up to the age of 11, so planning was needed**
 9 **about where he would move on to from that children's**
 10 **home. There was the incident from school and he was, as**
 11 **a result, excluded from school. There was a review in**
 12 **the December that had this information from CAMHS and**
 13 **the information from school and recommended that they**
 14 **should be looking for some more specialist provision to**
 15 **care for him and that went through the process of**
 16 **a meeting with the principal -- the care manager of**
 17 **the team that was working with him at the time.**
 18 Q. What are the options, even today, if you like, for
 19 a young child, a 10-year-old child, who is in this
 20 position, is in care and is displaying these types of
 21 behaviour? If you like, what would happen now?
 22 **A. The ideal option, in such a young child, would be to try**
 23 **and find a foster placement that could care for him.**
 24 **There are foster carers with extra skills, no other**
 25 **children around, you know, significant experience. But**

Page 91

1 at Appletree. You've seen that in the paperwork?
 2 **A. Yes, there were a number of instances at the children's**
 3 **home he was placed in. I found it quite hard to**
 4 **identify -- there were incidents of sexualised behaviour**
 5 **from him towards other children, and possibly from other**
 6 **children towards him, within the children's home, and**
 7 **incidents at school as well, which led to exclusion.**
 8 Q. There seem to be two slightly separate things, don't
 9 there: when he was in the mainstream school, he was
 10 excluded for having sexually abused a 5-year-old, so
 11 sexually assaulted a 5-year-old in the toilet. I think,
 12 Ralph, if we could get up BFC000050_005. This is
 13 a report from the Child and Adolescent Mental Health
 14 Services Unit before he was placed at Appletree. It is
 15 quite strongly worded, I think it is fair to say,
 16 Ms Curtis.
 17 **A. It is.**
 18 Q. In the second paragraph -- again, it is before he's at
 19 Appletree:
 20 "Given the current range of behaviours ... it is
 21 clear that he is a risk to other children ... unless he
 22 is supervised intensively, he is apt to look for an
 23 opportunity for sexual contact. The nature of this
 24 contact is nonconsensual, threatening and abusing. He
 25 seems en route to becoming a serious sex offender."

Page 90

1 **I also have to be honest and say it can prove extremely**
 2 **difficult now, as then, to identify a placement at the**
 3 **time for that child.**
 4 Q. So certainly, then, the idea of foster placement was
 5 completely ruled out for him?
 6 **A. It appears to have been ruled out. I can't see -- there**
 7 **was a referral -- a foster placement for him at that**
 8 **time, and the social worker would -- I've seen evidence**
 9 **of her having contacted the fostering team to find out**
 10 **what the prospects are of him being offered a foster**
 11 **placement. And there was nothing available.**
 12 Q. I think there's a meeting -- I think, Ralph, if we could
 13 get up BFC000084. This looks to be a planning meeting,
 14 as it says.
 15 **A. Yes.**
 16 Q. It is clear there that no family has been identified for
 17 him. We see that in the care planning. If you go over
 18 the page, please, Ralph, certainly my recollection of
 19 this is that it was that foster care was completely
 20 ruled out. Sorry, could you go over to the next page?
 21 There is nothing within Bradford, seems to be the upshot
 22 of this planning meeting.
 23 **A. Yes.**
 24 Q. So at this point, then, is this why a specialist setting
 25 outside of Bradford was considered?

Page 92

1 **A. My view is the assessment at the time was that he wasn't**
 2 **ready for a family, that there wasn't a children's home**
 3 **provision within Bradford that could care for him as**
 4 **well as an education plan. I think it needs -- the fact**
 5 **that he was excluded from school and so didn't have**
 6 **education provision was a key part of the planning.**
 7 Q. Because that would rule out a foster placement with
 8 associated education?
 9 **A. Exactly.**
 10 Q. I'd like to look at the abuse or the sexualised
 11 behaviour that he reported before he went to Appletree.
 12 If we could, Ralph, go to BFC000033. This is a note of
 13 a conversation. Do you recall seeing this?
 14 **A. Yes.**
 15 Q. Then if we could go over the page, please, Ralph, so
 16 this is where he makes a disclosure, doesn't he? It is
 17 heavily redacted for obvious reasons, but he said that
 18 he had done it with lots of people:
 19 "I asked him if these people were at school and he
 20 said 'no' ..."
 21 And he names the care home:
 22 "... 'but most are not there anymore'. [He] began
 23 to count to himself the number of people he had done it
 24 with getting to a number or six or seven.
 25 "I asked if he could tell me the names of people, he

Page 93

1 and social workers may have spoken to them. But even
 2 then, this is definitely a case, isn't it, where there
 3 should have been a strategy meeting?
 4 **A. I have since found records that suggest that previous**
 5 **incidents were followed up and reported to the police**
 6 **involving this child, but never got beyond -- never got**
 7 **to the point of anybody interviewing the child.**
 8 Q. I think the evidence that I have seen from the paperwork
 9 is, that's in relation to the allegation he makes about
 10 his father?
 11 **A. No, I have subsequently seen some information -- not**
 12 **this incident, but incidents in 2003, where the -- it's**
 13 **since -- we have found some information that says**
 14 **"telephone call to" and it is a name and I happen to**
 15 **know that's the local police safeguarding team at that**
 16 **time.**
 17 Q. So there was yet another incident that isn't detailed
 18 here --
 19 **A. Yes.**
 20 Q. -- which wasn't --
 21 **A. Well, what I'm not clear, and that's a problem with the**
 22 **recording, is I'm not clear if this was incidents of**
 23 **sexualised behaviours towards this child or by this**
 24 **child.**
 25 Q. But certainly in relation to this incident, if we focus

Page 95

1 initially said no ... but then ... turning it into
 2 a game."
 3 He goes on to describe what happened. Now, that is
 4 behaviour, sexual behaviour, isn't it, and arguably
 5 abusive sexual behaviour, happening in the care home?
 6 **A. Yes.**
 7 Q. This is before he gets to Appletree, so before he is 10.
 8 **A. Yes.**
 9 Q. I can't find, and I've not seen any evidence at the
 10 time, that any sort of strategy meeting was held about
 11 this?
 12 **A. No, and I haven't found any evidence a strategy meeting**
 13 **was held. I've seen case notes that say, "I think there**
 14 **needs to be a strategy meeting". There's a telephone**
 15 **call to the child protection unit. The unit manager of**
 16 **the children's home flagged up the need for a strategy**
 17 **meeting. But I can't see that one took place.**
 18 I've seen that there was the social worker informing
 19 other social workers, and I have gone back and spoken
 20 to -- the person who wrote this is still working in
 21 Bradford and he couldn't recall there being a strategy
 22 meeting. He wasn't in the position he's in now, but he
 23 recalled the other social workers being asked to speak
 24 to children. But that's as far as I've been able to --
 25 Q. That's what the paperwork shows, that the other children

Page 94

1 on this one --
 2 **A. There is nothing.**
 3 Q. -- there is nothing and there should have been?
 4 **A. There should have been.**
 5 Q. Why do you think there wasn't?
 6 **A. I don't know. I think because strategy meetings,**
 7 **section 47, were procedures that were in place at that**
 8 **time, but I think, with children in care, at that time,**
 9 **there was less of a focus on them -- on the safeguarding**
 10 **level through the child protection unit. Whereas, some**
 11 **years later, a lot of effort saying, "We need to be**
 12 **having section 47s, we need to be having strategy**
 13 **meetings when children in care raise concerns". So**
 14 **I believe it was a practice issue. The focus seemed to**
 15 **be more on strategy meetings, section 47, for children**
 16 **who were living within the community. That doesn't make**
 17 **it right.**
 18 Q. So looked-after children were not getting as --
 19 **A. I don't think they were getting --**
 20 Q. -- much scrutiny as --
 21 **A. -- the scrutiny.**
 22 Q. RS-C1 also, not just here when he tells the previous
 23 care home, but when he gets to Appletree he also talks
 24 about the fact that there was sexual activity going on
 25 in his care home?

Page 96

<p>1 A. Yes. 2 Q. Ralph, if we could get up CCC00007_059. This has been 3 sent to Cumbria. If we could go down to the text, this 4 is the school saying: 5 "Through drawings plus explicit sexualised language 6 around other children (predominantly younger), we have 7 concerns about possible previous involvement in 8 sexualised activity with other children at previous 9 placement." 10 So, again, he is talking about this once he gets to 11 his new placement. If we could go to the next page, 12 please, Ralph, _060. These are notes written by 13 Cumbria. 14 A. Yes. 15 Q. It says: 16 "Strategy meeting with police and school to be 17 [something]" -- "actioned", possibly -- "or needed." 18 Then it goes: 19 "Refer to placing authority for them to do 20 a strategy meeting and investigate." 21 But, in fact, that doesn't happen, does it? 22 A. They were referred to the local authority but a strategy 23 meeting didn't take place. 24 Q. We have heard this morning from Mrs Davies that she 25 feels that some of what -- it certainly didn't help</p> <p style="text-align: center;">Page 97</p>	<p>1 RS-C1's behaviour that this wasn't actioned, nothing was 2 done about this, essentially. What would happen now? 3 Are you confident that looked-after children are being 4 treated in the same way as other children now? 5 A. I'm very confident that a lot of the issues that I've 6 read in this case would be addressed differently now. 7 There would be a strategy discussion, there would -- 8 a meeting and there would be a section 47 take place. 9 I still think that, occasionally, there's confusions 10 around whose responsibility it is to do things when 11 children are placed externally, because I've heard those 12 discussions take place in the office: "Is it our 13 responsibility?", depending on the allegations. But 14 there would be a strategy discussion, a meeting and 15 there would be a section 47, and an agreement about who 16 was going to do what in terms of interviewing the child 17 and talking about what had happened. 18 Q. Certainly there's clearer guidance now, isn't there, 19 that it is the place where the child is that should 20 probably undertake that? 21 A. Yes. 22 Q. But at this point, it looks that they were clearly 23 signalling to you that you should be doing it? 24 A. Yes, and I think -- reading the case notes, they seem, 25 mistakenly, in my view, but there was a view almost from</p> <p style="text-align: center;">Page 98</p>
<p>1 the social worker, "He was placed here because these 2 were the worries and the behaviours", without thinking 3 through the impact on the child. 4 Q. Are you confident -- this was something that was 5 explored with Ms Davies a little earlier -- that the 6 information given to Appletree about RS-C1's sexualised 7 behaviours was sufficiently explicit about the danger? 8 A. I believe that various reports were shared with them, 9 including that report from CAMHS, which is fairly 10 explicit in what the concerns were. It was education 11 provision, the child was excluded for some fairly 12 explicit concerns. So I believe those concerns were 13 shared. 14 Obviously -- and I have gone back and spoken to the 15 social worker because she still works in the department 16 and said to her, "Do you feel you underplayed the 17 concerns?", and she -- her feeling was that, no, she 18 was -- she and the team from the children's home were 19 clear about the concerns. But it's based on memory and 20 hindsight. 21 Q. Certainly the only document we have seen from the time 22 which records the visit -- Ralph, if we could go to 23 APP000045. You may have seen this discussed this 24 morning. This is a record of the meeting, if you could 25 go to the next page, please. Again, the last paragraph</p> <p style="text-align: center;">Page 99</p>	<p>1 is a discussion, and it says: 2 "Staff have not experienced any incidents of 3 sexualised behaviour of a serious nature. RS-C1 has 4 shown incidents of curiosity, but nothing to a level 5 that would cause high levels of concern." 6 It is of some concern, isn't it, that this was the 7 message that was being given by the children's home at 8 the time? 9 A. Yes, and obviously I can't say what happened, because 10 I wasn't there at that meeting, but I certainly know 11 that the manager of the children's home at the time, and 12 the deputy manager, were fully aware of the concerns, 13 but I'm not aware that they were involved in this 14 meeting. 15 Q. That might be an explanation. I'd like to look now at 16 RS-C1's time at Appletree. He began absconding from 17 Appletree really from arriving, if you like. Now, as an 18 experienced social worker, what do you think about when 19 a child is absconding from a placement? What comes to 20 mind? 21 A. Well, I don't -- children shouldn't be absconding, and 22 it suggests -- it's not necessarily unhappiness, but 23 it's certainly lack of control in a secure control 24 level. Children do go missing. Now, the fact that he 25 was only 11 raises concerns for me. Children -- there's</p> <p style="text-align: center;">Page 100</p>

1 **much more focus on children going missing now, and much**
 2 **greater action taken when children go missing from**
 3 **children's homes and from care generally. But an**
 4 **11-year-old going missing is worrying.**
 5 Q. Ralph, if we could get up APP000012. This is the record
 6 of the absconsions. The reason I want you to see it is
 7 that the "People notified" section, people notified of
 8 absconsion, it says: "Police, social worker, parents and
 9 ed", I think. So every time RS-C1 absconded, his social
 10 worker was informed; that's right, isn't it?
 11 **A. Yes.**
 12 Q. What would have been the best practice, if you like,
 13 from the social work point of view if you were finding
 14 out that a child was absconding to this degree?
 15 **A. For me, and it is hard to say with hindsight because**
 16 **I know what I'm telling people they must do now, but**
 17 **then it's recorded that he went missing, it would need**
 18 **discussing with the child and the placement on visits**
 19 **and sort of reviewing what was going on. Now, the**
 20 **expectation is it's followed up on the day.**
 21 Q. Is this something that distance would have an impact on?
 22 **A. Yes, and it is something that distance has an impact on**
 23 **today, in fact. But for now, children who are going**
 24 **missing should be spoken to by their social worker and**
 25 **an independent missing -- we commission an organisation,**

Page 101

1 **or ability to go. It's looking at what doors are shut,**
 2 **access, things like that. It can lead -- it can, at**
 3 **times, lead to placements ending.**
 4 Q. So it could have led to a transfer for RS-C1?
 5 **A. Yes.**
 6 Q. And he would have been spoken to, or he would be spoken
 7 to?
 8 **A. He would be spoken to, definitely.**
 9 Q. We know from the records that RS-C1 was visited by his
 10 social worker reasonably frequently. It is almost
 11 monthly, I think.
 12 **A. Yes.**
 13 Q. There is a two-month gap between October
 14 and December 2005, and there is a three-and-a-half-month
 15 gap between January 2006 and April 2006. You don't have
 16 any explanation for that?
 17 **A. I can't find any reason -- and he had the same social**
 18 **worker throughout, and she doesn't recall whether she**
 19 **was on holiday or anything at that time.**
 20 Q. That is quite a long period for a child?
 21 **A. It is a long period. It is too long.**
 22 Q. Again, you have described systems in place which would
 23 mean that this now has to be 28 days; is that right?
 24 **A. Now -- in these days, the case notes -- some of them are**
 25 **handwritten, they then become typed. Now it's all**

Page 103

1 **so all our children who go missing have a missing return**
 2 **interview from an independent person after they have**
 3 **been missing and found.**
 4 Q. That wasn't something that was in place --
 5 **A. That wasn't in place, no.**
 6 Q. Now, we know --
 7 **A. Sorry, and now a child with that many missings would**
 8 **trigger some sort of strategy discussion.**
 9 Q. That was my next question.
 10 **A. Sorry.**
 11 Q. No, that's fine. They are sort of clustered, aren't
 12 they?
 13 **A. Yes.**
 14 Q. So this would now trigger, then, some co-ordinated
 15 action?
 16 **A. It would trigger a strategy discussion, a strategy**
 17 **meeting, a missing -- an agreement with the police and**
 18 **the placement about a missing protocol, and if it was --**
 19 **if there were particular concerns, that meeting would**
 20 **have to be chaired by someone at my level.**
 21 Q. What, typically, can be the outcomes of that type of
 22 discussion?
 23 **A. It's often looking at what's going on for the child**
 24 **within the placement and how to make them -- sort of**
 25 **putting extra supports in so they don't have free time**

Page 102

1 **computerised. We run reports every month that show us**
 2 **how many children have been visited within timescales**
 3 **and, if they haven't been visited, we have to know why.**
 4 Q. So that process actually does help on the ground?
 5 **A. It does.**
 6 Q. It is not just a sort of paper exercise?
 7 **A. It does, no.**
 8 Q. It means that visits are undertaken which wouldn't
 9 otherwise be undertaken?
 10 **A. I can say from my level as a service manager, I've**
 11 **been -- I've seen a vast improvement in visiting levels**
 12 **since we have run such reports.**
 13 Q. There are a number of review meetings, aren't there,
 14 that we have seen in the paperwork?
 15 **A. There are, yes.**
 16 Q. So the first one happens in November 2005. Ralph, if
 17 you could get up BFC000085. So these are meetings which
 18 take place at the placement, and they're done by the
 19 independent reviewing officer.
 20 **A. Yes.**
 21 Q. I don't want to go through this line by line, but it is
 22 clear from this, isn't it, that that officer was
 23 concerned that there'd been no sort of long-term
 24 planning in respect of RS-C1's placement; is that right?
 25 **A. He was regularly flagging up within the reviews, what**

Page 104

1 **was the next step for this child; that this was only**
 2 **a placement for a short -- a relatively short period.**
 3 Q. That was because Appletree only takes children until
 4 they turn 13, doesn't it?
 5 **A. Yes. Yes.**
 6 Q. As we know, I think, RS-C1 had just turned 11?
 7 **A. Yes, and, actually, my understanding is the people that**
 8 **agreed the placement agreed it for a year. I've seen**
 9 **it -- a case note, a minute, say.**
 10 Q. Certainly this report suggests that there wasn't
 11 a document that this reviewer could find which spelt out
 12 the rationale for this placement?
 13 **A. No.**
 14 Q. You'd expect, wouldn't you, with this type of specialist
 15 placement for there to be some -- a rationale for
 16 placing a child --
 17 **A. Yes, and in 2005, the whole process for commissioning**
 18 **placements and being clear about what -- the**
 19 **expectations of the placement was fairly new, new**
 20 **processes, at that time. But we have things called --**
 21 **I think it is "individual placement agreements" that the**
 22 **commissioning team send out which say, "This is why this**
 23 **placement has been commissioned and this is what the**
 24 **plans are".**
 25 Q. Even in the absence of that particular template, there

Page 105

1 **A. Yes.**
 2 Q. It wasn't a passing comment or --
 3 **A. No.**
 4 Q. There was an allegation which was very explicit?
 5 **A. Mmm.**
 6 Q. Maybe, just to be clear, we should go to that, at
 7 BFC000073_001. If we could go to the allegations made
 8 by RS-C1 at the bottom. This is a report by the NSPCC.
 9 So his father had hurt him when he was little:
 10 "He described in his own words that his father used
 11 to perform oral and anal sex with him. He described
 12 dad's girlfriend removing the sticky stuff that covered
 13 him because the social worker was coming to the house."
 14 And then commentary about it being said that it was
 15 important that he had got these things out of his head.
 16 So, again, as I said, it is not a general thing, but it
 17 is quite an explicit allegation made.
 18 **A. Yes.**
 19 Q. So this was an allegation by a young boy about abuse by
 20 his father. The usual process, again, would have been
 21 a strategy meeting?
 22 **A. A strategy meeting. A strategy meeting/section 47**
 23 **investigation.**
 24 Q. Again, just to be absolutely clear, that should have
 25 been what happened in 2006?

Page 107

1 should have been some better thinking, shouldn't there,
 2 about --
 3 **A. Yes, because it is, "Where is he going to go next?",**
 4 **and, for a child, that will have been in his mind.**
 5 Q. We see that, don't we, towards the later reviews, "I'm
 6 not going to be here for much longer"?
 7 **A. Absolutely.**
 8 Q. I'd like to talk a bit about the disclosure that RS-C1
 9 made about abuse by his father. So we have already
 10 established, I think, that there was no action taken
 11 when he made allegations about -- "no action taken";
 12 there wasn't a strategy meeting or --
 13 **A. There wasn't a strategy meeting. The social worker**
 14 **sought advice from her team manager, who said to check**
 15 **out the history and had this been investigated**
 16 **previously, but then nothing else was done.**
 17 Q. So let's look a little bit in more detail at the
 18 chronology. So RS-C1's social worker was told he made
 19 a disclosure, I think, on the 11th -- well, October,
 20 let's say, 2006.
 21 **A. Yes.**
 22 Q. Again, I covered it this morning, but it was an
 23 allegation that was very detailed --
 24 **A. Yes.**
 25 Q. -- and explicit, wasn't it?

Page 106

1 **A. Yes.**
 2 Q. Your comments about there not being strategy meetings
 3 for looked-after children in the same way, do they apply
 4 in respect of this allegation then, as well as the
 5 other?
 6 **A. I feel quite strongly there should have been a strategy**
 7 **discussion. There was a referral to the police later,**
 8 **I think about six weeks later, but that was made without**
 9 **any strategy discussion. It was a straight referral to**
 10 **the police and without being followed up. There should**
 11 **have been a strategy discussion and referral earlier.**
 12 Q. Again, we looked at this briefly earlier, but you've not
 13 seen this, I don't think: the fact that there was
 14 a referral seems to have been prompted by a telephone
 15 conversation with the principal at Appletree?
 16 **A. Yes, and that's clear to me from looking at our case**
 17 **records.**
 18 Q. So you've seen that --
 19 **A. Yes.**
 20 Q. -- she rings and says, "Actually, RS-C1 is very worried
 21 that no-one is doing anything about" --
 22 **A. Yes, and the child was visited in between that time,**
 23 **I believe.**
 24 Q. I think the note says, "I didn't like to raise it with
 25 him because it wasn't conducive"?

Page 108

1 **A. Yes.**
 2 Q. And then it says something like there had been building
 3 works?
 4 **A. I think it says something like that and also that he was**
 5 **not in the right frame of mind or something.**
 6 Q. Yes. So, again, just to be absolutely clear about it,
 7 because, these days, you might expect the
 8 social services in the area to hold this, but at this
 9 point -- Ralph, if we could get up BFC000032_002.
 10 Again, this is a Cumbria County Council letter, and it
 11 is confirming a conversation regarding the information:
 12 "You told me the school had also faxed the same
 13 information to you ..."
 14 Sorry, this is to RS-C1's social worker, isn't it?
 15 **A. Yes.**
 16 Q. It says:
 17 "I have spoken to our child and adult protection
 18 unit ... and they ask that you inform the department in
 19 your area of ... allegations."
 20 So it was clear early on, then, so well
 21 before November, that Cumbria's view was that this
 22 should be being dealt with by Bradford?
 23 **A. Yes.**
 24 Q. So the delay, it shouldn't have happened, should it?
 25 **A. No, no. I'm clear that the delay shouldn't have**

Page 109

1 an increase in absconding, we know, in the autumn of
 2 2006. You are familiar with that?
 3 **A. Yes.**
 4 Q. Again, we looked at this morning -- tell me if you need
 5 to see it -- concerns at the end of October that he
 6 didn't trust himself with children in the unit, and you
 7 were informed -- Bradford Council -- his social worker
 8 was informed that he was telling staff there were only
 9 two children he could trust himself with.
 10 **A. Mmm.**
 11 Q. I think you also knew he was not actually accessing
 12 education at that point?
 13 **A. Yes.**
 14 Q. Because he was just being given work in the children's
 15 home. So at this point, should steps have been taken,
 16 do you think, to take RS-C1 out of that placement?
 17 **A. My understanding is, and the social worker said, "We are**
 18 **looking for another placement anyway for him", but**
 19 **I certainly think -- and I can't remember when the**
 20 **previous review had been, but it is said, "We need**
 21 **a review in, I think, December". There was definitely**
 22 **a need, I think, probably to bring the review forward.**
 23 **I'm not clear whether the social worker had a discussion**
 24 **with the independent reviewing officer at this point to**
 25 **say, "Things are deteriorating and we need to be looking**

Page 111

1 **happened.**
 2 Q. Are you confident, again, that there is a different
 3 approach taken to this type of allegation made by
 4 a looked-after child?
 5 **A. I feel confident now that there would be a -- the**
 6 **information would come in, there would be a discussion**
 7 **with a manager, there would be a record of that**
 8 **discussion and that there would be a strategy discussion**
 9 **about how to proceed.**
 10 Q. So I think RS-C1 makes allegations about the previous
 11 care home?
 12 **A. Mmm.**
 13 Q. He makes allegations about his father?
 14 **A. Mmm.**
 15 Q. The principal at Appletree thought that would have had
 16 an effect on his behaviour. What's your view on that?
 17 **A. I think there are probably a number of factors**
 18 **influencing his behaviour. One, that he'd made**
 19 **disclosures and they hadn't been acted upon. Another,**
 20 **that he knew he was getting of an age that he needed to**
 21 **be moving on and he didn't know where he was going.**
 22 Q. So that uncertainty as well?
 23 **A. I'm sure that uncertainty was probably as significant**
 24 **for him.**
 25 Q. Now, there was a deterioration in RS-C1's behaviour and

Page 110

1 **at the planning for him".**
 2 Q. There was certainly no placement ready, was there --
 3 **A. No.**
 4 Q. -- when things did go very badly wrong?
 5 **A. No.**
 6 Q. So, again, we know, again from this morning, that just
 7 after that, he absconded again?
 8 **A. Mmm.**
 9 Q. Now, I think the council was informed, so the social
 10 worker was informed, on 24 November --
 11 **A. Yes.**
 12 Q. -- about the incident that had happened on 9 November.
 13 **A. Yes.**
 14 Q. Again, from the chronology, it looks like the first time
 15 that there was information that you needed to remove
 16 RS-C1 was on 29 November?
 17 **A. Yes.**
 18 Q. Is that your recollection?
 19 **A. My recollection is that the concerns were passed to the**
 20 **social worker on 24 November, and was told that this was**
 21 **going to be investigated and that it had been referred**
 22 **to the police, and then there was a call saying that he**
 23 **had to go that day, and we had to find somewhere else**
 24 **for him.**
 25 Q. My understanding is that he left straight from the

Page 112

1 police station.
 2 **A. Yes, from reading the case files and, to some extent,**
 3 **the social worker's memory, she said she immediately**
 4 **informed our placements team who worked to find an**
 5 **emergency placement and she and another member of staff**
 6 **went over that afternoon and picked him up from the**
 7 **police station. She wasn't allowed to go into the**
 8 **interview with him.**
 9 Q. But she was at the police station?
 10 **A. Yes.**
 11 Q. My understanding is that he was interviewed as
 12 a suspect?
 13 **A. Yes.**
 14 Q. He was interviewed under caution?
 15 **A. Yes.**
 16 Q. So, again, we are -- it is difficult sometimes to
 17 remember, but we are talking about a 12-year-old at this
 18 point?
 19 **A. A 12-year-old.**
 20 Q. So this immediate removal, how do you -- what's your
 21 feeling about that at the time?
 22 **A. I think it must have been incredibly distressing for**
 23 **him. Sadly, it's not completely out of the ordinary.**
 24 **It does happen, for children in complex situations.**
 25 **More and more, we try to say to providers, "You need to**

Page 113

1 **Secure provision wasn't considered, and, to be honest,**
 2 **I -- to get secure provision for a 12-year-old, now you**
 3 **have to seek agreement from the Secretary of State.**
 4 **I don't think that was the case then, but, still, to**
 5 **seek secure provision for a 12-year-old I think would be**
 6 **extremely out of the ordinary.**
 7 Q. We are not going to go into the sort of details of that,
 8 but that wasn't something that you even now would think
 9 would be appropriate?
 10 **A. You'd have to seek agreement at a very senior level for**
 11 **something like that, and secure provision is never**
 12 **long-term provision.**
 13 Q. I wonder if there's a definition issue which we haven't
 14 touched on, but we know that RS-C1 is still
 15 absconding -- I suppose that's the issue, isn't it? --
 16 even when he gets to the new place in December.
 17 **A. Yes.**
 18 Q. The main issue, I suppose, in the absence of that
 19 question is about the level of therapy, or access to
 20 therapy for RS-C1?
 21 **A. I think it is very clear from case notes and the**
 22 **paperwork that the social worker, in identifying -- in**
 23 **being told about this placement in Halifax, in**
 24 **discussion with the provider, was clear about the**
 25 **recommendations for therapy and the NSPCC worker spoke**

Page 115

1 **give us time to find somewhere appropriate", and I think**
 2 **the difference now is, we'd struggle to find somewhere**
 3 **immediately for him.**
 4 Q. So what would happen?
 5 **A. Well, we have had -- I can think of examples in the last**
 6 **year or two where we have been forced to place children**
 7 **within our own provision because we've got nowhere else**
 8 **for them to go.**
 9 Q. Again, I'd like to look at the placement for RS-C1 when
 10 he left. You deal with this in your witness statement
 11 at paragraphs 24 to 26. You received detailed advice
 12 from Appletree, didn't you?
 13 **A. Yes.**
 14 Q. Essentially, to summarise that, it was about a secure
 15 provision for RS-C1 and about as high a level of
 16 therapeutic input as was possible to try and help him?
 17 **A. Mmm.**
 18 Q. We know that that wasn't achieved, don't we?
 19 **A. Yes.**
 20 Q. I think you've just described it as an emergency
 21 placement?
 22 **A. He was placed in an emergency overnight, but I think it**
 23 **was very quickly clear that that wasn't an appropriate**
 24 **longer-term provision, and plans were being made to find**
 25 **somewhere else that was more appropriate for him.**

Page 114

1 **to the placement herself and there was an NSPCC project**
 2 **within the local area, but there was debate around**
 3 **funding for that placement.**
 4 Q. I think if we could get up BFC000038. I think this is
 5 a record of some of that confusion, if you like. So
 6 this is RS-C1's social worker trying to access a level
 7 of therapy for him.
 8 **A. Yes.**
 9 Q. But what's clear from this is that there is confusion,
 10 isn't there, about whether and how he is going to be
 11 provided with therapy?
 12 **A. There was confusion, and at that time, and I'm talking**
 13 **a bit from memory, there were different CAMHS services**
 14 **had different arrangements about provision for children**
 15 **from other local authorities.**
 16 Q. I think, if we -- sorry, Ralph, BFC000075. Again, this
 17 is a meeting, so in May 2007, so some time after RS-C1
 18 has left.
 19 **A. Yes.**
 20 Q. Again, I know I'm just reading out small bits of it, but
 21 it says at the end of the top paragraph:
 22 "Subsequently he was placed at ... on an interim
 23 basis, this is a unit without a dedicated therapeutic
 24 function."
 25 **A. Yes.**

Page 116

1 Q. So he was in places where he wasn't able to access
 2 therapy as part of that environment; is that right?
 3 **A. Yes, and he was -- he went to one placement which didn't**
 4 **have dedicated therapeutic function. He then moved to**
 5 **another placement with a view that they would be able to**
 6 **source therapeutic function, but there were issues and**
 7 **difficulties there.**
 8 Q. Yes.
 9 **A. And he became more unsettled, so he wasn't -- I would**
 10 **say he wasn't in a position to be able to access any**
 11 **therapeutic work at that time.**
 12 Q. Again, the context being that the NSPCC report had said
 13 that he was a risk to himself and he was a risk to
 14 others?
 15 **A. Yes.**
 16 Q. You have a lot of experience, as you have said --
 17 **A. Yes.**
 18 Q. -- of placing looked-after children.
 19 **A. Yes.**
 20 Q. It is not great, is it, the planning for RS-C1 and what
 21 happened after he left? What would be your views on it?
 22 **A. I mean, no, I think he's -- we talk about placement**
 23 **stability being key to children's progress and**
 24 **development, and he did not have placement stability.**
 25 **As a young child, he was then moved to Appletree, he**

Page 117

1 Questions from THE PANEL
 2 THE CHAIR: Just following up that last point, amongst the
 3 issues around at the moment, is it the availability of
 4 suitable specialised placements, or is it the cost of
 5 them that is the bigger issue?
 6 **A. I think it's the availability. We have been in**
 7 **a position of almost "money is no object", which is not**
 8 **the case, but still not been able to identify**
 9 **placements. But we are putting far more energy into**
 10 **ensuring children remain local and building the skills**
 11 **of our children's home staff and putting in the supports**
 12 **there now, so having psychologists working within the**
 13 **children's homes, speech and language therapists,**
 14 **police, to try and maintain children in their local**
 15 **area, and underpinning that with real evidence-based**
 16 **knowledge.**
 17 THE CHAIR: So you don't necessarily take account of
 18 resources when you're seeking an appropriate placement
 19 for children with very complex needs?
 20 **A. People do take account of resources, but at times we**
 21 **have said, "Let's just see what's there". I mean,**
 22 **there's a lot of money spent on these children.**
 23 THE CHAIR: Indeed. I'm very much aware of that.
 24 **A. And not always effectively.**
 25 THE CHAIR: Perhaps you could give us an indication, we

Page 119

1 **then moved to somewhere else. He moved on -- after he'd**
 2 **been in secure provision, he was within that placement,**
 3 **placed in secure provision, where I think, again, they**
 4 **identified he needed the holistic provision of**
 5 **education, care and therapy, and another provider was**
 6 **identified for him where he remained for two years, but**
 7 **he then moved to a foster placement, which lasted**
 8 **months, I believe, and then he was in yet another**
 9 **residential provision, so it wasn't good.**
 10 Q. Is this a story of RS-C1 or are there things which need
 11 to happen differently?
 12 **A. I think the biggest issue for these children is**
 13 **placement stability and being able to maintain them in**
 14 **a placement where they can receive all the services is**
 15 **the issue. But it's not an unusual story, and it's --**
 16 **and I wouldn't say it's better now than it was, in terms**
 17 **of the most complex children being moved to different**
 18 **provision, and I think things like children going**
 19 **missing puts greater scrutiny on placements and it's**
 20 **almost harder to find a placement now.**
 21 MS BICARREGUI: Thank you very much. Chair and panel,
 22 I don't have any further questions. If you can stay
 23 there, the chair and panel may have some questions.
 24
 25

Page 118

1 haven't heard about that before, the weekly rate or the
 2 annual rate for such a placement?
 3 **A. So I'm slightly out of touch, but I think a fairly**
 4 **straightforward placement is -- children's home**
 5 **placement is around £3,500/£4,000 a week.**
 6 THE CHAIR: For someone with C1's kind of very --
 7 **A. At least £4,000 per week, maybe more if extra staffing**
 8 **is needed or extra supports are needed.**
 9 THE CHAIR: Thank you. Thank you very much. Thank you very
 10 much indeed.
 11 MS BICARREGUI: Chair and panel, we are a little early, but
 12 it seems sensible to break now for lunch.
 13 THE CHAIR: Yes, we will return at 1.50 pm.
 14 (12.50 pm)
 15 (The short adjournment)
 16 (1.50 pm)
 17 MS NIELD: Chair and panel, I would like to call, please,
 18 Detective Superintendent Jonathan Morgan of
 19 the West Yorkshire Police.
 20 MR JONATHAN MORGAN (sworn)
 21 Examination by MS NIELD
 22 MS NIELD: Good afternoon, Mr Morgan. Thank you for coming.
 23 I have a few things to say to you before I start asking
 24 you any questions. Firstly, please feel free to refer
 25 to your witness statement or to any documents or notes

Page 120

1 you have at any time. It is not a test of memory. We
 2 can stop at any time and for any reason, so if you need
 3 to have a break, please just let me know and we will do
 4 so. Thirdly, you have a paper bundle in front of you
 5 with your witness statement, other witness statements
 6 and some documents. There is also a screen in front of
 7 you. Any document I am going to ask you to comment upon
 8 in any detail will come up on the screen. Your two
 9 witness statements are behind tabs A/1 and A/2 in that
 10 bundle. Chair and panel, this is in your core bundle E
 11 behind tab A/4 and A/5.

12 You have signed each of those witness statements,
 13 the first is dated 5 August 2019, and the second is
 14 dated 12 September 2019. Have you read those recently?

15 **A. I have, yes.**

16 Q. Are they true, to the best of your knowledge and belief?

17 **A. They are, yes.**

18 Q. Finally, we are going to be talking about an individual
 19 who was a child at the time in question, and I know that
 20 you are aware that it is important that we don't use his
 21 name. As discussed earlier today, the child we are
 22 talking about is known for the purposes of this inquiry
 23 as RS-C1. We will also need to be careful to not give
 24 too much detail in terms of family relationships,
 25 placement names and specific dates such as birthdays.

Page 121

1 a complaint that was made in 2006 of non-recent sexual
 2 assault. That complaint was made by a looked-after
 3 child, C1. We are also going to be looking at the
 4 police decision not to obtain evidence from C1 by video
 5 interview, on the basis that the attending officer had
 6 assessed C1 as lacking competence as a witness. So
 7 those are the issues we are going to be looking at this
 8 afternoon.

9 I think we should clarify that you weren't
 10 personally involved in the case of C1, were you?

11 **A. No, I wasn't.**

12 Q. But you have read the documents that we have available
 13 from the time and you have spoken to the officers who
 14 were involved; is that right?

15 **A. Yes.**

16 Q. In particular, statements have been taken from the
 17 officer who attended and who spoke to C1 and his carer?

18 **A. That's correct, yes.**

19 Q. If we can begin, please, by looking a little at the law
 20 and guidance on enabling child complainants to
 21 participate as witnesses in criminal proceedings, first
 22 of all, can you tell us in broad terms, what's the
 23 policy of West Yorkshire Police in terms of enabling or
 24 supporting vulnerable witnesses and victims to
 25 participate in the criminal justice system?

Page 123

1 If I or anyone else notices that a name has been used,
 2 then we will cut the feed.

3 You are a detective superintendent and you are head
 4 of the West Yorkshire Police Safeguarding Central
 5 Governance Unit; is that right?

6 **A. That's correct, yes.**

7 Q. How long have you held that post?

8 **A. This particular post, for 12 months. I've been
 9 a detective superintendent for five years now.**

10 Q. What's the purpose of the safeguarding central
 11 governance unit?

12 **A. The central governance unit ensures that compliance with
 13 policy and procedures is adhered to across the
 14 organisation. We also identify lessons learned and good
 15 practice, which we implement into our safeguarding
 16 policies and procedures.**

17 Q. You have, as a police officer, led a number of
 18 investigations into offences reported by children.
 19 I think that's right?

20 **A. That's correct, yes.**

21 Q. You have also investigated several complex, non-recent
 22 child abuse inquiries at residential care homes,
 23 resulting in successful prosecutions?

24 **A. I have, yes.**

25 Q. This afternoon, we are going to be looking at

Page 122

1 **A. So any policy that West Yorkshire has in place, and had
 2 at the time in 2006/2007, is based around the Achieving
 3 Best Evidence in Criminal Proceedings Doctrine, which is
 4 really the fulcrum for any policies that we adhere to
 5 now, and our policies -- a number of our policies will
 6 include reference to that; in particular, competence of
 7 witness, in particular, as well, the use of special
 8 measures, and also in terms of specialist investigators
 9 carrying out the more complex investigations and being
 10 skilled and trained to do that.**

11 Q. In broad terms, would it be right to say that the police
 12 have a number of measures that are available to them in
 13 order to try to enable vulnerable witnesses, which
 14 includes children, to give evidence in criminal
 15 proceedings?

16 **A. Yes, that's correct.**

17 Q. Can I take you, please, to the witness statement of
 18 Mr Gregor McGill from the Crown Prosecution Service? It
 19 is behind your tab A/7. Perhaps we could get up,
 20 please, Ralph, CPS004851_002. Can we look at
 21 paragraph 6, please. Can we highlight paragraph 6?
 22 Mr McGill sets out the rules around the competence of
 23 witnesses to give evidence from sections 53 and 54 of
 24 the Youth Justice and Criminal Evidence Act 1999:
 25 "Provided the witness can understand the questions

Page 124

1 put to him or her and can also provide coherent answers,
 2 then he or she is competent to give evidence. The
 3 assessment of competency should, where applicable, take
 4 into account techniques or measures that can be used to
 5 assist the witness to give his or her evidence."
 6 Would you agree with that as a statement of the law?
 7 **A. I would, yes.**
 8 Q. In terms of special measures that you have mentioned,
 9 what sort of special measures are available to enable
 10 best evidence from witnesses?
 11 **A. The key ones are being able to give evidence -- video**
 12 **evidence-in-chief, being able to give evidence via**
 13 **a screen. Also, there are opportunities where gowns and**
 14 **wigs can be removed. More recently, we have section 28**
 15 **provision which allows cross-examination to be carried**
 16 **out on video, and also evidence to be given by way of**
 17 **videolink. So a number of special measures have been in**
 18 **place since 1999, when the Youth Justice Crime and**
 19 **Evidence Act was brought into place. They have been in**
 20 **place since 1999. Since then, the section 28 provision**
 21 **has been introduced. So there is a host of special**
 22 **measures provisions for children and vulnerable**
 23 **witnesses, and also there's the inclusion now of use of**
 24 **intermediaries.**
 25 Q. Registered intermediaries --

Page 125

1 this issue, this can be discussed with the CPS [Crown
 2 Prosecution Service] at the early special measures
 3 meeting'."
 4 That's the guidance for police that was current in
 5 2006/2007; is that right?
 6 **A. Yes.**
 7 Q. In terms of video-recorded interviews with child
 8 witnesses, police officers conducting those interviews
 9 have to be specially trained to do so, don't they?
 10 **A. Yes.**
 11 Q. I think those are known as ABE, or achieving best
 12 evidence, interviews?
 13 **A. That's correct, yes.**
 14 Q. That nomenclature comes from the Achieving Best Evidence
 15 Home Office guidance; is that right?
 16 **A. Yes.**
 17 Q. Can we have a look, please, at part of that Home Office
 18 guidance, Achieving Best Evidence. This is
 19 CPS004849_037. Can we have up, please, paragraph 2.50,
 20 "Assessment prior to the interview":
 21 "Interviewers may often decide that the needs of
 22 the child and the needs of criminal justice are best
 23 served by an assessment of the child prior to the
 24 interview taking place, particularly if the child has
 25 nod had previous or current involvement with

Page 127

1 **A. Yes.**
 2 Q. -- who can assist the child in giving their evidence; is
 3 that right?
 4 **A. Yes.**
 5 Q. I think it is the presumption that where there is
 6 a child witness, whether that child is a victim or
 7 simply a witness, that their evidence will be received
 8 by way of video recorded interview; is that right?
 9 **A. That's correct, yes.**
 10 Q. They have the option to opt out, but the presumption is
 11 that that is how it will be undertaken?
 12 **A. The presumption is they will have it done, yes.**
 13 Q. Can we have a look, please, at paragraph 5 of
 14 Mr McGill's statement. He assists us with the policy
 15 guidance in relation to competence and vulnerable
 16 witnesses. He says:
 17 "In 2001, the Home Office published 'Vulnerable
 18 Witnesses -- A Police Service Guide' which set out how
 19 to identify and support vulnerable witnesses. At
 20 paragraph 5.7, it says:
 21 "Competence: officers should not make early
 22 judgments on whether the witness is likely to be
 23 accepted as a competent witness by the courts and should
 24 act on the general presumption that they will be
 25 regarded as competent. If the officer has concerns on

Page 126

1 social services or other public services."
 2 It sets out then a list, if we can go over the page,
 3 of what that assessment should include, what general
 4 factors should be explored. It is all to do with
 5 whether the child is able and willing to talk within
 6 a formal interview setting, an explanation of the reason
 7 for the interview, the ground rules, an opportunity to
 8 practise answering open questions, the child's
 9 cognitive, social and emotional development. There is
 10 the final point in that list:
 11 "An assessment of the child's competency to give
 12 consent to interview and medical examination."
 13 That's the only mention of assessing the witness's
 14 competence, and it is in terms of giving consent to be
 15 interviewed and to be medically examined, if that were
 16 relevant.
 17 The achieving best evidence guidance doesn't appear
 18 to envisage police officers determining the competence
 19 of a witness prior to the interview; would you agree?
 20 **A. Yes.**
 21 Q. Before we look at the assessment of competence that took
 22 place in C1's case, can we briefly summarise, please,
 23 what information West Yorkshire Police had prior to that
 24 assessment taking place. I think you have explained in
 25 your witness statement that once West Yorkshire Police

Page 128

1 received the referral or the report of a complaint of
 2 crime on 16 November, a log was created on the
 3 Vulnerable and Intimidated Victims Database, or the
 4 VIVID log; is that right?
 5 **A. Yes.**
 6 Q. That is a record of all the investigative actions that
 7 are taken and also all the information that
 8 West Yorkshire Police have had reported to them or have
 9 obtained in the relation to that investigation?
 10 **A. Yes.**
 11 Q. Could we get up, please, OHY007914. So that's the log
 12 with matters recorded on it. I am not going to go
 13 through it line by line because there is a great deal of
 14 detail, but I think it is right that that log includes
 15 the details and the dates of the matter first being
 16 reported to West Yorkshire Police, with a verbatim
 17 record of the first disclosure by C1 to his carer at
 18 Appletree on 11 October.
 19 **A. Yes.**
 20 Q. So that was, word for word, what the carer had recorded
 21 C1's disclosure as containing?
 22 **A. Yes.**
 23 Q. If we can go to page 2, please, Ralph, of that log, can
 24 we see there, the bottom section, that on 28 November,
 25 "DC Harris" -- he was the investigating officer at

Page 129

1 C1 well, and was able to inform me that C1, in fact, had
 2 been moved out of the Cumbria area and had been placed
 3 in a placement in another county"?
 4 **A. Yes.**
 5 Q. In fact, in Lancashire, and that's why, in the end,
 6 Lancashire Police went to speak to C1; is that right?
 7 **A. That's correct, yes.**
 8 Q. Now, you've seen the documentation, and I don't think we
 9 need to get it up, in relation to C1 having been
 10 interviewed by Cumbria Police?
 11 **A. Yes.**
 12 Q. In due course, all the information -- the interviews of
 13 the other boys, the video-recorded interviews of
 14 the other boys, who were witnesses and the
 15 audio-recorded interview under caution of C1 as
 16 a suspect in that case, all of that documentation was
 17 sent through to the Crown Prosecution Service in Cumbria
 18 for a charging decision.
 19 **A. Yes.**
 20 Q. That's the standard procedure in a case like that, isn't
 21 it?
 22 **A. It is.**
 23 Q. You have seen a summary of C1's account in that
 24 interview on 29 November. There is no suggestion,
 25 either in the charging advice or within that summary,

Page 131

1 West Yorkshire Police; is that right?
 2 **A. Yes.**
 3 Q. "DC Harris has noted that there has been previous child
 4 protection unit involvement with C1, that there had been
 5 a complaint that he had been sexually assaulted by
 6 another child, and that that complaint had not been
 7 proceeded with, as it was decided that C1 was not
 8 suitable for interview due to his very short attention
 9 span and his inability to remain in the same place for
 10 any length of time."
 11 **A. Yes.**
 12 Q. There isn't a note about when that allegation or that
 13 assessment of C1 was made, but then, subsequently,
 14 DC Harris spoke to C1's social worker:
 15 "I have spoken to Rose at Springfield who has stated
 16 that she thinks C1 may be suitable to video interview
 17 now."
 18 She also explains that there has been information
 19 from the home that allegations have been made against
 20 C1. It is also noted on the log on page 3 -- we may not
 21 need to go to it -- that C1, in fact, was interviewed
 22 under caution by police at Cumbria in relation to that
 23 allegation against him.
 24 **A. Yes.**
 25 Q. It is noted on the log that DC Summers of Cumbria knows

Page 130

1 that C1 couldn't understand the questions that
 2 DC Summers was asking him, is there?
 3 **A. There is nothing in that report to indicate that.**
 4 Q. Or that C1 couldn't give a coherent interview, couldn't
 5 give a coherent response?
 6 **A. No.**
 7 Q. Whilst we mention the CPS charging advice, I think there
 8 is a point you would like to clarify that was mentioned
 9 briefly yesterday. There was a remark noted on the
 10 charging decision about the boys involved having
 11 "damaged backgrounds". I think you just wanted to
 12 clarify that that was a note made by the Crown
 13 Prosecution Service lawyer, not the police officer in
 14 the case?
 15 **A. Yes, that's correct.**
 16 Q. Can I ask you this: if a 12-year-old boy has been
 17 interviewed under caution and responds appropriately to
 18 questions asked of him with coherent answers, it might
 19 be difficult to understand how, subsequently, that same
 20 boy could be considered as not competent to give an
 21 interview as a victim of crime?
 22 **A. Yes, it would be odd that he was able to understand
 23 everything that was asked in terms of a criminal
 24 investigation as a suspect. However, it's not clear
 25 whether, when the assessment was done by the officer in**

Page 132

1 **Lancashire, they had that information available to them.**
 2 Q. The officer who went to speak to C1 spoke to him at his
 3 placement. She was from the Lancashire Constabulary?
 4 **A. Yes.**
 5 Q. In terms of the VIVID log, that's a West Yorkshire
 6 Police database?
 7 **A. It is.**
 8 Q. Would an officer from a different force have access to
 9 that log?
 10 **A. They wouldn't necessarily have access to it because our**
 11 **systems are not compatible, and they wouldn't have been**
 12 **then. However, there would be no reason -- and what**
 13 **should have been done was that discussions took place**
 14 **between Bradford Child Protection Unit and the**
 15 **Lancashire Child Protection Unit to ensure that all the**
 16 **information that Bradford had was handed to that**
 17 **interviewing officer.**
 18 Q. Is there any record on the VIVID log of that taking
 19 place, on what information was given to PC Carbery?
 20 **A. No.**
 21 Q. There is no record of that?
 22 **A. Not that I can see, no.**
 23 Q. PC Carbery has provided a witness statement which I know
 24 that you have seen. She has set out that she can't
 25 recall anything about this case. She is entirely

Page 133

1 **conducting the -- wanting to conduct the video-recorded**
 2 **interview was in Lancashire. The allegations that took**
 3 **place with C1 were -- occurred in Cumbria, and Bradford**
 4 **had the lion's share of information in relation to this**
 5 **child's background. So there were three forces. The**
 6 **information about three forces would have been**
 7 **a challenge at that time.**
 8 Q. We don't know what degree of co-operation and
 9 information sharing took place, because the VIVID log is
 10 silent on that point?
 11 **A. It might be very -- it might be the case that**
 12 **discussions did take place, and the information was**
 13 **provided. However, the VIVID log doesn't indicate that.**
 14 Q. Can we look, please, at page 3 of this form,
 15 OHY007911_003, please, Ralph. The officer takes the
 16 details of C1, that social services have parental
 17 responsibility, and makes a note that the social worker
 18 is Rose Agbada?
 19 **A. Yes.**
 20 Q. Does it appear that Rose Agbada was consulted at any
 21 time about C1's competence to give interview, or any of
 22 these matters in this investigation?
 23 **A. Just further on in the document, there is a checklist of**
 24 **descriptive issues, descriptive indicators -- sorry,**
 25 **without seeing the document as a whole, but there is an**

Page 135

1 reliant on the form that she filled out at the time, the
 2 ABE1 form.
 3 **A. Yes.**
 4 Q. We will come to that in a moment -- perhaps we will get
 5 it up now. OHY007911. It is behind tab B/11 in your
 6 bundle if you prefer to use that. There is a Post-it
 7 note, but I think we can see it is a Lancashire
 8 Constabulary document, the ABE1. Was this a form that
 9 was used nationally by all forces? Was it a form that
 10 you used in West Yorkshire Police?
 11 **A. No. This was -- there was no national form, as such, at**
 12 **that time. Each force developed their own, based on the**
 13 **guidance and the requirements of the achieving best**
 14 **evidence pro forma. In West Yorkshire at the time, we**
 15 **recorded all our information on the VIVID document that**
 16 **you referred to earlier.**
 17 Q. From what you have told us about not having access
 18 automatically to the VIVID log, PC Carbery may or may
 19 not have been aware that C1 had been interviewed as
 20 a suspect two months previously?
 21 **A. That's right, yes.**
 22 Q. And may or may not have been aware that C1's social
 23 worker thought that he was suitable for a video
 24 interview.
 25 **A. Yes. The issue here is that the officer, PC Carbery,**

Page 134

1 **indication on one of those descriptive indicators that**
 2 **consultation has been made with the carer and -- social**
 3 **carer or "SW", I think.**
 4 Q. Would you like to go to -- I think it is page 7. Is
 5 that the page you're talking about?
 6 **A. Yes, that's the one, yes.**
 7 Q. The carer had attended from the home in Lancashire?
 8 **A. Yes.**
 9 Q. The carer isn't Rose Agbada, is it? It's not the
 10 allocated social worker?
 11 **A. No. That's right, it does mention on there**
 12 **social services reports. Now, again, it's not clear**
 13 **from that document whether a face-to-face discussion**
 14 **was -- occurred with the social worker or the officer**
 15 **just relied on the report itself.**
 16 Q. While we are talking about the documentation for C1, you
 17 have seen, I think -- again, we don't need to get it up
 18 on the screen -- there was a psychological report that
 19 had been prepared on C1 in 2004 which stated that he was
 20 of low/average intelligence; is that right?
 21 **A. Yes.**
 22 Q. But there's no evidence or information that that was
 23 drawn to the attention of PC Carbery?
 24 **A. No.**
 25 Q. Similarly, C1 had a statement of special educational

Page 136

1 needs prepared in 2004, when he was 10, that noted that
 2 his language and communication skills were
 3 age-appropriate and that he had no significant needs
 4 regarding communication; is that right?
 5 **A. That's right, yes.**
 6 Q. That's significant, I think, when we come to look at the
 7 notes that are made by PC Carbery at the time. But,
 8 again, there is nothing to show that C1's statement of
 9 special educational needs was made available?
 10 **A. No.**
 11 Q. In fact, there wasn't a strategy discussion or strategy
 12 meeting prior to this pre-interview meeting taking
 13 place, was there?
 14 **A. No. I mean, strategy discussions did take place at the**
 15 **time. It doesn't appear that one was -- took place for**
 16 **this particular child. Nowadays, we would -- or police**
 17 **officers who are making an assessment to determine the**
 18 **competency of a victim or a witness would refer to**
 19 **strategy discussion notes, and strategy discussions now**
 20 **are far more formal affairs that take place within**
 21 **multi-agency safeguarding hubs. So the group of**
 22 **individuals that -- core participants relevant to this**
 23 **particular child would either be working together or**
 24 **they would be called together at very short notice to**
 25 **have that formal discussion and these things would be**

Page 137

1 happy to talk to officer but appeared confused of what
 2 going to ask about.
 3 "Explanation given of reason for interview:
 4 allegation he made to his social worker concerning his
 5 father."
 6 Of course, we don't know whether PC Carbery was
 7 aware that he had been spoken to two months previously.
 8 The last time he had spoken to police, it was when he
 9 was suspected of a criminal offence?
 10 **A. Yes.**
 11 Q. Can we look, please, there is a box which begins
 12 "Questioning practices" just at the bottom of that box
 13 we have had up -- no, forgive me, the box above.
 14 "Questioning practices" and it sets out questions and
 15 replies. That box is empty, that part of the assessment
 16 doesn't appear to have been completed at all. Does it?
 17 **A. No.**
 18 Q. Following that box:
 19 "Following assessment, is witness considered to be
 20 competent to give evidence?
 21 "No.
 22 "Following assessment, does witness display
 23 competent understanding of the situation?
 24 "No.
 25 "Is a formal interview in the best interests of

Page 139

1 **audited, recorded properly, and officers now would be**
 2 **able to get that information and speak to the**
 3 **professionals themselves to assess whether somebody is**
 4 **suitable for interview.**
 5 Q. But normal practice, back in 2006, was that there would
 6 have been a strategy discussion prior to an officer
 7 going out to see an alleged victim like C1?
 8 **A. Yes, there should be. There should have been a strategy**
 9 **discussion, but they didn't always take place.**
 10 Q. Can we have a look, please, at OHY007911_005, please,
 11 Ralph. It has been set out here on this pre-interview
 12 assessment form, about halfway down, this is for the
 13 officer attending:
 14 "You may have to speak to the witness/complainant to
 15 establish some basic facts. If questions are asked,
 16 avoid discussing substantive matters; record what
 17 questions you ask and the replies ..."
 18 And it says:
 19 "My dad sexually touched me when I was about
 20 3/4 years old. My mum told me that I was checked at
 21 hospital."
 22 So C1 appears to understand what it is that the
 23 officer wants to talk to him about. Over the page,
 24 please, Ralph, page 6, in that box at the top:
 25 "Ability/willingness to talk informal interview ..."

Page 138

1 the witness?
 2 "No."
 3 How would a police officer be able to assess the
 4 child's ability to understand and answer questions
 5 without completing that part of the form that sets out
 6 questions and replies?
 7 **A. For this particular incident, I can't really comment on**
 8 **why those boxes weren't completed. It may be the fact**
 9 **that the questions weren't asked in sufficient detail to**
 10 **record in that box. I can't really comment on why that**
 11 **is. But in order for an officer to make an assessment**
 12 **of an individual, they would have to have a face-to-face**
 13 **discussion with that child and form an opinion based on**
 14 **a series of questions that are put to them.**
 15 Q. Over the page, please -- that's page 7, Ralph -- this is
 16 the next part of the ABE1 form, and it is headed
 17 "Part 4 -- witness' development". It gives a list of
 18 topics to be covered, information gathered, from whom
 19 and when and, as you say, all the information seems to
 20 have been given by the carer to C1, who was from his
 21 recent placement, who had known him -- well, he had only
 22 been at that placement for a few weeks at that time,
 23 hadn't he?
 24 **A. Yes.**
 25 Q. Below "Information gathered" it says in brackets:

Page 140

<p>1 "Will support evidence of vulnerability or 2 intimidation." 3 This doesn't appear to be a list of matters that go 4 to competence but rather to establishing whether the 5 witness is vulnerable or intimidated. Can we please go 6 over the page to page 9, please. Can we highlight the 7 third part of that text, please. This is the notes of 8 the officer: 9 "Spoke to carer of RS-C1 who agrees that C1 would 10 not make a competent witness. Due to his language 11 difficulties, poor attention span." 12 Language difficulties and poor attention span 13 aren't, in fact, part of the test of competence, are 14 they? 15 A. They may form part of a decision whether somebody is 16 competent or not, but not specifically. 17 Q. Can we go, please, to the witness statement of 18 Gregor McGill. That is behind your divider 7/A. Can we 19 look, please, Ralph, at page 3, paragraph 11. What 20 Mr McGill says is: 21 "Issues such as attention span, communication level 22 and memory span should be considered in terms of special 23 measures or adjustments in court procedure." 24 So it is not a matter of whether they're competent 25 to give evidence, but how that evidence can be</p> <p style="text-align: center;">Page 141</p>	<p>1 maximised, in terms of special measures. That's right, 2 isn't it? 3 A. Yes, and I think that you made a really valid point, in 4 that there are two separate issues here. There's the 5 pre-assessment interview, and whether that individual is 6 competent to understand questions that are put to them 7 and can make -- answer the questions that are being 8 provided, so there's that initial assessment that's 9 carried out, and still is today carried out by a police 10 officer, but there is also the option to conduct the 11 interview, now with support of intermediaries, which 12 weren't in place then, to -- and then, subsequent to 13 that interview, to then -- 14 Q. If I can stop you there. I think registered 15 intermediaries were in place in 2006, but in their 16 infancy, I think you've said? 17 A. They were, yes. But, like many things, they take time 18 to embed, and certainly in West Yorkshire, we didn't 19 introduce intermediaries to interviews such as this 20 until 2008/2009. Now, I can't speak for Lancashire 21 Constabulary, but we are a big metropolitan force, 22 Lancashire is a smaller force, so I can imagine that 23 they probably didn't have that facility at that time, 24 and I would have assumed, if they did, that the officer 25 would have made reference to it or taken the option to</p> <p style="text-align: center;">Page 142</p>
<p>1 use an intermediary. 2 Q. Isn't the point here that, really, at a pre-video 3 interview assessment, what's being assessed are what 4 kind of special measures are going to help the witness, 5 and it's not really the role of the police officer to 6 make a determination on competence? 7 A. It was the role of the police officer, and it remains 8 the role of the police officer, because police officers 9 are trained to make that assessment. It is ultimately 10 their decision, but based on the information, 11 professional evidence of other professionals, to make 12 that determination. 13 Q. Police officers who are determining competence of 14 a witness -- which means their access to the criminal 15 justice system when we are talking about victims, 16 doesn't it? 17 A. Yes. 18 Q. Are officers given any written guidance, or are there 19 any written policies on how they're supposed to approach 20 the assessment of competence? 21 A. In West Yorkshire, there is no specific policy with 22 regard to competence. Competency is covered nationally 23 in this guided training course which is provided for all 24 officers who are wanting to be child protection 25 officers, and that is an accredited course that they</p> <p style="text-align: center;">Page 143</p>	<p>1 need to complete with a workplace assessment. That 2 training is different now to what it was in 2006/2007, 3 which is quite extensive and covers pre-assessment 4 interviews and covers elements of competency. However, 5 there is nothing specific in our policy. I can't 6 comment on other forces, whether they have a specific 7 policy that covers competency in the detail that you're 8 referring to, but it's something that, you know, 9 certainly for me, is something I would want to take away 10 and assess whether it's the case nationally that this 11 level of support is given to officers to make sure that 12 children are given the right assessment prior to being 13 interviewed. 14 Q. Mr McGill, in his witness statement, says that in his 15 experience the assessment of competency of a witness 16 would ordinarily be undertaken once the video interview 17 had taken place so that the child's understanding of 18 questions and ability to respond can be assessed by 19 reference to the interview itself. How can police 20 officers assess the competence of a witness until they 21 have been asked those questions and given answers, 22 because within the guidance, it's very clear within the 23 ABE form, it's very clear that officers are told, "Don't 24 ask questions about the substantive matters. Don't ask 25 questions about the offence". So how is it possible to</p> <p style="text-align: center;">Page 144</p>

1 assess competence of a witness until you have got an
 2 interview to assess?
 3 **A. Well, officers would ask questions to determine**
 4 **competence without veering into the evidential process,**
 5 **so there are methods to do that. A number of questions**
 6 **could be asked without requiring the need to start**
 7 **interviewing them as such. As I mentioned, today we**
 8 **have intermediaries that can provide that support and**
 9 **extract best evidence from children, which obviously --**
 10 **well, I believe it wasn't available to the officer at**
 11 **the time.**
 12 Q. This is a child who has been assessed as not having
 13 particular communication difficulties, in terms of
 14 the statement of special educational needs, and this is
 15 a child who has already been interviewed as a suspect
 16 two months previously?
 17 **A. Yes, and --**
 18 Q. There don't appear to have been, on the face of it, with
 19 all the information that you have and that we now have
 20 in relation to C1, that C1 wasn't competent?
 21 **A. It would appear that, had that information been at hand**
 22 **to the officer, then the officer might have made**
 23 **a different decision.**
 24 Q. After this decision was taken that C1 was not competent,
 25 that led to the investigation effectively being closed

Page 145

1 there, beginning 19 March, it begins "Watkins". Yes,
 2 thank you, there. DS Watkins says he's decided to
 3 re-open this matter in order to clarify a number of
 4 issues that had been raised by the NSPCC. Can we have
 5 a look at point 6 -- there are a number of matters,
 6 where is the father, and so on:
 7 "Can we confirm from any records that the father had
 8 no access to RS-C1 after the age of 10 months old. If
 9 this can be reliably confirmed, then this would
 10 definitely cast doubt on the reliability of
 11 the allegation."
 12 Why is it, when the case is being re-opened because
 13 issues have been raised by the NSPCC, that the police
 14 officer is looking to cast doubt on the reliability of
 15 the allegation made by this boy?
 16 **A. I'm sorry, I'm not able to comment on that, but I do**
 17 **recognise the issues that you raise in terms of that**
 18 **point.**
 19 Q. In fact, what is found is that, from looking at case
 20 conference reports, C1's mother had to move to a women's
 21 refuge in 1999 -- this would be when C1 was 4?
 22 **A. Yes.**
 23 Q. He said the abuse happened when he was 3 or 4 and that
 24 his father had taken him away. That C1's mother had
 25 gone to a women's refuge in 1999 fearing violence from

Page 147

1 with no further action taken; is that right?
 2 **A. That's correct.**
 3 Q. I think the NSPCC wrote to West Yorkshire Police --
 4 that's behind your tab B/18, BFC000071. Pat Palmer, the
 5 Children's Services manager from South Cumbria NSPCC
 6 took issue with the decision not to proceed any further
 7 and not to interview C1 and she set out a number of
 8 concerns in that letter. That, I think, led DS Watkins
 9 of West Yorkshire Police to re-open the incident on
 10 19 March 2007; is that right?
 11 **A. Yes.**
 12 Q. A number of enquiries that were effectively raised
 13 within that letter were undertaken. I think it is right
 14 that, although DS Watkins said the case was re-opened,
 15 the decision not to interview C1, the assessment that he
 16 was not competent, was never revisited?
 17 **A. That's correct.**
 18 Q. Without a complainant, there was no case, was there?
 19 **A. There are times when we can take victimless prosecutions**
 20 **to CPS, but they are few and far between, and,**
 21 **realistically, in a case like this, a complainant would**
 22 **have required to provide a statement.**
 23 Q. If we can very briefly deal with some of the enquiries
 24 that were then undertaken. Can I take you to the VIVID
 25 log, 007914_004, please. Can we go to the fifth box

Page 146

1 the father. This suggests that C1 has had contact with
 2 the father, he would have been 4 years old at the time.
 3 There were also enquiries carried out to see whether
 4 father had any relevant previous convictions. Again,
 5 that was a matter referred to in the psychological
 6 report that wasn't seen by the officer.
 7 **A. Yes.**
 8 Q. He was, in fact, a schedule 1 offender.
 9 **A. Yes.**
 10 Q. In fact, when he was 18, he was convicted of a sexual
 11 offence against his 5-year-old half-sister. Is that the
 12 sort of information that might have made a difference,
 13 had it been known to the officer at the time when an
 14 assessment was being undertaken of C1?
 15 **A. Yes.**
 16 Q. It's supporting evidence, isn't it?
 17 **A. Yes, it is.**
 18 Q. Because it could be used in a prosecution against C1's
 19 father?
 20 **A. Absolutely, yes.**
 21 Q. But the police did not, in fact, confirm that position
 22 until May 2007; is that right?
 23 **A. Yes.**
 24 Q. I wonder if we can go, please, to the CPS policy, the
 25 Code for Crown Prosecutors, please. That's

Page 148

<p>1 OHY0004646_002. Is it INQ? Thank you. 2 Can we go to the second page, please. This is the 3 Code for Crown Prosecutors. It is published on the 4 website for the public to read. There seems to be 5 a disconnect between what's happening in practice with 6 officers assessing competence and what's written in this 7 policy. It begins on page 2 that any person is 8 a competent witness and capable of giving evidence 9 subject to two exceptions set out in the guidance below: 10 "A witness is competent if he or she can lawfully be 11 called to give evidence. The principle is set out in 12 section 53 ..." 13 There are two exceptions. The first is they are not 14 competent to give evidence in criminal proceedings if it 15 appears to the court that they are unable to understand 16 questions put to them as a witness and give answers to 17 them which can be understood; and the second exception 18 is if they are, in fact, charged in the proceedings. We 19 don't need to consider that. 20 In determining competence, this is saying: 21 "At a trial, the judge or the magistrates will 22 decide if a witness is competent." 23 The next page, please: 24 "The exception under section 53(3) of the Youth 25 Justice and Criminal Evidence Act 1999 is entirely</p> <p style="text-align: center;">Page 149</p>	<p>1 witness specific and there should be no presumptions or 2 preconceptions. Provided the witness can understand the 3 questions put to him or her (by both parties) and can 4 also provide coherent answers, then he or she is 5 competent. This assessment of competency should, where 6 applicable, take into account techniques or measures 7 that can be used to assist the witness ..." 8 It gives the example of a registered intermediary. 9 If we go down to the bottom, it elaborates on that: 10 "The Court of Appeal in the case of R v Sed held 11 that the test of competence set out in section 53 did 12 not require a witness to understand all the questions 13 put to her and for all her answers to be understood. It 14 was a matter for the judge to determine competence, 15 taking into account the effect of the witness's 16 performance as a whole and whether there was a common 17 and comprehensible thread in her responses to the 18 questions." 19 If we can go to the next page, please, that's _005: 20 "Credibility and reliability. 21 "Competency should not be confused with credibility 22 or reliability. At the stage when the question of 23 competency is being decided upon, judges or magistrates 24 are not deciding whether a witness is, or will be, 25 telling the truth or giving accurate evidence.</p> <p style="text-align: center;">Page 150</p>
<p>1 Questions about credibility and reliability go to the 2 weight of the evidence, not to the competence of 3 the witness." 4 It also -- can we go to page 7, please: 5 "Children of any age can be called to give evidence; 6 their competence depends on their understanding, not 7 their age. As far as competency is concerned, the same 8 test is applied to child witnesses as for adult 9 witnesses." 10 If we look at page 6, it says this in relation to 11 file review -- I appreciate this is CPS guidance, and 12 not police guidance: 13 "A prosecutor concluding at the review stage that 14 a witness is not competent by virtue of section 53(3) of 15 the Youth Justice and Criminal Evidence Act should 16 ensure that they have considered the matter thoroughly. 17 Such a significant and rare decision should be discussed 18 with, and authorised by, a District Crown Prosecutor or 19 above. The potential ramifications for the witness in 20 both the present and future proceedings should not be 21 underestimated." 22 There seems to be a disconnect between that 23 published policy for the Crown Prosecution Service and 24 what happened in this case, and perhaps in many cases, 25 because you say that police officers continue to assess</p> <p style="text-align: center;">Page 151</p>	<p>1 competence before a decision is made whether to 2 video-record an interview with a child witness, and 3 Police Constable Carbery has said that she undertook 4 hundreds of those pre-interview assessments. Decisions 5 about the competence of child witnesses seem to be taken 6 by police officers with no written guidance or policy on 7 how they are to do that and those decisions are not 8 being taken at CPS level, or at least in some cases 9 those are being taken -- those decisions are being taken 10 out of the hands of the CPS and they are in the hands of 11 police officers who haven't got any clear guidance, and 12 in this case, certainly, appear to have applied criteria 13 that are the incorrect criteria. Would you like to 14 comment on that? 15 A. I agree with everything you've said there, in terms of 16 the information that's been provided in the Crown 17 Prosecution Service guidance document, and I will make 18 reference to the fact that some of the case law you've 19 referred to is 2009/2010, which was after the officer 20 did that video interview. So there's more case law that 21 provides officers support and guidance in terms of 22 competency of a witness prior to an interview taking 23 place. 24 I would say that that is one case, this is one case 25 that we are referring to. I wouldn't like to say in an</p> <p style="text-align: center;">Page 152</p>

1 **inquiry that this is the case for every single historic**
 2 **incident of officers conducting video interviews.**
 3 **Certainly --**
 4 Q. Can I just ask you on that point, do you keep any data
 5 about cases that don't proceed because there's been
 6 a decision that a witness is not competent?
 7 **A. I would have to check. I believe that the police don't**
 8 **hold that data, the CPS might. It is something I will**
 9 **probably have to go away -- it is a really good point**
 10 **and one that probably we'd have to go away and have**
 11 **a look to determine whether that's the case. It is an**
 12 **extremely good point.**
 13 Q. It is a point that you address in your witness
 14 statement, actually.
 15 **A. Yes.**
 16 Q. I wonder if I can take you there, please. I think this
 17 is your second witness statement. Forgive me, because
 18 I'm struggling to find it, but I think you do address
 19 the point and say that you don't keep records of when
 20 a case ends because there's been a decision that
 21 a witness isn't competent?
 22 **A. We would -- we now use, certainly in West Yorkshire,**
 23 **Niche as the recording system for any crime, or**
 24 **occurrence, as we call it now. That would detail**
 25 **instances when a child was possibly not competent to**

Page 153

1 children, in particular with a learning disability, and
 2 the testimony that they can give, particularly from the
 3 perspective of their ability to speak and give
 4 particular details which might be what the case might
 5 hinge on."
 6 Would you like to make any comment on that, in terms
 7 of how the police are currently approaching the
 8 testimony of child victims?
 9 **A. Yeah, I think this -- the wider issue around this is,**
 10 **officers wanting to hear the voice of the child and**
 11 **appreciating that children should be heard. I think**
 12 **today, in any police force, officers are trained better,**
 13 **they're geared better to speak to children with care and**
 14 **compassion. The best example I can give is children**
 15 **that go missing. On many occasions, a child will be**
 16 **found in the middle of the night and officers in full**
 17 **uniform take the child back and try and extract**
 18 **information from this individual, and on occasions may**
 19 **have considered them as criminals, depending on each**
 20 **circumstance. Now it's not, necessarily, that officers**
 21 **will carry out an interview with the child, because it's**
 22 **not the best approach, there are commissioned services**
 23 **that provide that service; but even if officers do, they**
 24 **have the training, front-line staff understand**
 25 **vulnerability better, they understand the voice of**

Page 155

1 **give evidence through video interview.**
 2 Q. Would it be possible to obtain the data on how many
 3 cases annually end in that way?
 4 **A. It could be done, but I think it would be -- you**
 5 **wouldn't be able to press a button to extract all that**
 6 **information straight away. It's a valid point. It's**
 7 **information that could be extracted, but not very**
 8 **easily. Can I just add, though, in terms of -- in**
 9 **answering your previous question, this was an incident**
 10 **where there is a question in terms of whether this child**
 11 **was competent or not, and you infer that, realistically,**
 12 **the competency determination should be made at CPS**
 13 **level. I would say today that, in the majority of**
 14 **cases, that does take place, and I think officers'**
 15 **understanding of competency and the options surrounding**
 16 **officers to interview children, which is what we want to**
 17 **do, we want to achieve the best evidence from the child**
 18 **without unduly distressing them, I think the training is**
 19 **better now. I think officers understand the legislation**
 20 **better and I think we're in a far better position now**
 21 **than we perhaps were in 2007.**
 22 Q. Yesterday we heard from James Robinson of Mencap and he
 23 said this:
 24 "What we have encountered is more of a cultural
 25 issue which calls into question the reliability of

Page 154

1 **the child, they understand adverse childhood**
 2 **experiences, and they can treat children in a better**
 3 **way. So I think we have moved on a long way from where**
 4 **we were in 2007.**
 5 MS NIELD: I have no more questions for you, Detective
 6 Superintendent. Chair and panel, do you have any
 7 questions?
 8 THE CHAIR: Ms Sharpling?
 9 Questions from THE PANEL
 10 MS SHARPLING: Thank you, Mr Morgan. Do you think a simple
 11 explanation for the difficulty in establishing
 12 competence was the officer in question merely conflated
 13 competence, which has a rather precise legal definition,
 14 and reliability, which I think speaks for itself?
 15 **A. I think you might be right. I think so, yes. I think**
 16 **there's -- the officer's decision has been heavily**
 17 **weighted on the information provided by the carer, but,**
 18 **yes, I would agree with that.**
 19 MS SHARPLING: Secondly, we have heard evidence to the
 20 effect that there was some sort of investigation in
 21 Lancashire and an investigation in West Yorkshire.
 22 I want to ask you a question about intelligence sharing,
 23 because that must be, presumably, the lifeblood of any
 24 investigation.
 25 **A. Yes.**

Page 156

1 MS SHARPLING: Given that there was something happening in
 2 Lancashire and there was something happening in
 3 West Yorkshire, what's the process involved in
 4 discovering what had happened in the past in another
 5 force?
 6 **A. Well, now we have -- well, we had at the time -- PNC,
 7 police national computer, which provides information on
 8 specific previous convictions of individuals. We also
 9 have PND, which is a national system to update on
 10 various information that not necessarily just focuses on
 11 the offence itself but intelligence as well. But also,
 12 I think forces now -- there's still an issue, because
 13 not all the IT systems are aligned. So our IT system
 14 will be different to another force. But, realistically,
 15 now officers in each force will be expected to, and do,
 16 make contact with their counterparts, and I would like
 17 to think now, and I'm fairly confident, that,
 18 irrespective of an incident taking place in Cumbria,
 19 another one in Lancashire and one in West Yorkshire, we
 20 would all pull together to share information.**
 21 **In addition to that, I mentioned before that we have
 22 multi-agency safeguarding hubs where we have agencies
 23 working together, and there is close co-operation in
 24 information sharing between each MASH, as we call them.
 25 So there are various methods now to share information,**

Page 157

1 for the potential of disclosure, if required, on unused
 2 material basis.
 3 **A. Absolutely, and today decisions -- CPS rarely make
 4 decisions without all that disclosable third party
 5 material beforehand.**
 6 MS SHARPLING: That would have given you a fuller picture,
 7 the officer in the case a fuller picture, of what the
 8 case was all about?
 9 **A. Yes. In those days, it was a case of investigating,
 10 going to a charging decision and then gathering all that
 11 information afterwards. Now we are far more
 12 sophisticated, in terms of capturing all that beforehand
 13 so we have a full picture of what's happened from all
 14 the multi-agency involvement with this child before
 15 a charging decision will be made.**
 16 MS SHARPLING: I see, thank you.
 17 THE CHAIR: Thank you very much. We have no further
 18 questions.
 19 **A. Thank you.**
 20 **(The witness withdrew)**
 21 MS SCOLDING: Chair and panel, we now pass over to the
 22 evidence of Professor Simon Hackett.
 23 It is core bundle C, tab A 1.
 24
 25

Page 159

1 **various systems, that perhaps weren't in place then.**
 2 MS SHARPLING: Can I just press you on it for a moment. The
 3 issue in Lancashire where C1 had been interviewed as
 4 a suspect and there's an officer in West Yorkshire
 5 investigating a case, where would that officer look to
 6 find that information from Lancashire? What button must
 7 he press or what phone call must he make?
 8 **A. Unless the information was uploaded onto the system
 9 called PND -- if the person was arrested, then that
 10 would go on the PNC, the police national computer, so an
 11 officer from West Yorkshire should be able to look on
 12 the police national computer and see that somebody has
 13 been arrested.**
 14 MS SHARPLING: And somebody from West Yorkshire could have
 15 done that in respect of the investigation we have been
 16 discussing?
 17 **A. Yes.**
 18 MS SHARPLING: You're an experienced investigator yourself,
 19 though, I understand it, Mr Morgan.
 20 **A. Yes.**
 21 MS SHARPLING: If the case had proceeded to a trial, ie, the
 22 West Yorkshire investigation, would C1's material, third
 23 party material, in relation to all the information about
 24 his stay in various children's homes, would that have
 25 been obtained by the officer in the case and examined

Page 158

1 PROFESSOR SIMON HACKETT (affirmed)
 2 Examination by MS SCOLDING
 3 MS SCOLDING: Good afternoon, Professor Hackett. Thank you
 4 very much for coming to give evidence. We have a report
 5 from you which is behind a bundle which you should have
 6 in front of you, tab 1 of that bundle, in fact. Can you
 7 confirm that the facts set out within your expert report
 8 are true and that your opinions represent your true and
 9 complete professional opinion on the matters to which
 10 they refer?
 11 **A. I can.**
 12 Q. You understand that it is your duty to provide
 13 independent evidence to this investigation, not tainted
 14 by any view of one person or another?
 15 **A. I do.**
 16 Q. Just a few preliminary points. This is most definitely
 17 not a test of memory. I don't expect you to have
 18 memorised a 110-page report, so please feel free to
 19 refer to your notes at any time. We will also be having
 20 a break at around 3.05 pm or 3.10 pm, for around
 21 15 minutes, but if you need to break before that, please
 22 do let me know.
 23 Next, if we need to get any documents up -- I think
 24 we will only get very few -- there is a screen next to
 25 you and we may well get up some parts of your report on

Page 160

<p>1 the screen. 2 Professor Hackett, just a few introductory issues. 3 You are currently Deputy Provost and Professor of 4 Child Abuse and Neglect at Durham University; is that 5 right? 6 A. That's correct. 7 Q. Your particular areas of research are on the topic of 8 harmful sexual behaviour between children and between 9 adults, including long-term studies into adulthood of 10 those who have been referred to specialist services 11 whilst children; is that right? 12 A. That's right. 13 Q. You also have 25 years' experience working as 14 a clinician with children who have demonstrated sexual 15 behavioural problems; is that right? 16 A. I have worked in this field for 25 years. My clinical 17 experience is less than 25 years. I am primarily now an 18 academic researcher rather than a clinician. Before 19 I became an academic, I worked in clinical practice. 20 Q. You are chairperson of the National Organisation for the 21 Treatment of Abuse? 22 A. I was until last month. I was at the time of writing, 23 but my term has now expired. I'm the immediate past 24 chair now. 25 Q. In particular, you were part of the group which</p> <p style="text-align: center;">Page 161</p>	<p>1 developed the NICE guidelines, which are the 2 standardised guidelines issued to clinicians about 3 managing sexually harmful behaviours; is that right? 4 A. That's right, yes, and the NICE guidance is linked to 5 the NSPCC operational framework on harmful sexual 6 behaviour, of which I am also the first author. 7 Q. Thank you very much. We have asked you to produce 8 a report in particular about sexually harmful behaviour 9 which takes place in the context of children within 10 a residential school setting, and also asking about 11 sexually harmful behaviour between children who may have 12 disabilities or special educational needs. 13 In order to explore these issues, I would like to 14 touch on some introductory information that you tell us 15 in your report. So, first, can I ask you to go to 16 paragraph 1.4 of your report. Chair and panel, that is 17 EWM000469_004. So this is some analysis and research 18 you have undertaken, so that's over a one-year period of 19 all sexual crimes reported to one police constabulary 20 where children under the age of 18 were recorded as the 21 alleged perpetrator. Ralph, could you go to the top of 22 the next page, please. What were your findings about 23 how many young people were coming into the criminal 24 justice system who were alleged to have committed sexual 25 crime against another young person?</p> <p style="text-align: center;">Page 162</p>
<p>1 A. So this was part of a broader study of responses to 2 child sexual abuse in this area. I was given the 3 opportunity to look at all cases that had been referred 4 through to the police or had been recorded by the police 5 of sexual crime over that 12-month period, and, as 6 I have written in the report, about half of all of those 7 records related to children and young people under the 8 age of 18 at the time of the alleged commission of 9 the act of sexual crime. 10 Q. Do you think that that analysis -- it is difficult, 11 because obviously it is just one constabulary, but is it 12 likely that that one constabulary you could extrapolate 13 that out to be a nationwide situation? 14 A. I think it is difficult. However, discussing this with 15 different colleagues across the UK, there certainly 16 seems to have been a significant increase in the reports 17 to the police of this type of activity. So, in the 18 past, we thought that about 25 to 33 per cent of all 19 sexual abuse coming to the attention of professionals 20 related to children and young people as the alleged 21 perpetrators. This kind of research may indicate that 22 that proportion is growing. But I have to be tentative 23 about that because my research only looked at data from 24 this one local area. 25 Q. If we then go to paragraph 1.5, of those 511 cases, can</p> <p style="text-align: center;">Page 163</p>	<p>1 you tell us a little bit about what you found in terms 2 of how often that sort of harmful sexual behaviour was 3 taking place within schools? 4 A. Yes. So I analysed each of these cases to look at the 5 location and the nature of the behaviours that were 6 being demonstrated. The most common location for the 7 harmful sexual behaviour was the family home, but 8 schools were also quite significantly represented and, 9 in total, 58 incidents or cases had occurred in a school 10 context accounting for that 11 per cent of the total. 11 Q. Before we get much further, we have both been talking 12 about harmful sexual behaviour. It would be useful for 13 us to explain what that means. You identify at 14 paragraph 2.18 of your report -- EWM000469_010 -- there 15 is not an official definition of it, as I understand it. 16 Perhaps you would like to tell us what your 17 understanding is, and what your definition is, of 18 harmful sexual behaviour? 19 A. So a variety of terms have been used across different 20 jurisdictions, across different time periods and 21 relating to different types of sexual behaviour between 22 children. There is real variability in terminology. 23 But most recently we proposed the term "harmful sexual 24 behaviour" as, if you like, an umbrella term for a range 25 of behaviours that span from lower-level inappropriate</p> <p style="text-align: center;">Page 164</p>

<p>1 behaviours by children through to very abusive and 2 violent sexual behaviours. So "harmful sexual 3 behaviour" seems to be a term that has been adopted by 4 many of the agencies providing services to this group of 5 children and young people, and the notion of it is that 6 those behaviours are in some way developmentally 7 inappropriate and harmful to other people or, indeed, 8 harmful to the child expressing the behaviour. 9 Q. But, in particular, I think you have helpfully -- Ralph, 10 the next page -- at page 11, identified, and we have 11 a figure of the continuum model of sexual behaviour in 12 childhood. Now, this is something which you have 13 produced to show that problematic sexual behaviour is on 14 a continuum and harmful sexual behaviour, I'm assuming, 15 is towards the right-hand side, shall we say, of that 16 continuum? Perhaps you would like to explain a little 17 about this continuum and what it means? 18 A. So I originally developed the notion of a continuum of 19 sexual behaviour in childhood really to try to encourage 20 practitioners, people working in the field, to have 21 a model to distinguish between different types of 22 behaviour that were being presented. I'd seen in 23 practice and through my research there was a tendency to 24 lump all children together for expressions of sexual 25 behaviour that adults were concerned with, when, in</p> <p style="text-align: center;">Page 165</p>	<p>1 fact, they exist in a huge range. So this idea of 2 a continuum is an attempt to describe that range. 3 Q. So we have got normal, which is developmentally expected 4 and socially acceptable. Now, we will come on to 5 discuss the fact that adults can have some difficulties 6 identifying what's meant to be developmentally expected 7 and what's socially acceptable and what's consensual. 8 Then inappropriate. So that would be socially 9 acceptable behaviour within a peer group. Can you give 10 some examples of what might be considered to be 11 inappropriate behaviour but not problematic? 12 A. Well, for instance, peer group behaviours within public 13 places may be troubling and inappropriate. So it's not 14 necessarily the nature of the acts that may be 15 developmentally out of sync, but the location or the 16 context for those behaviours may be problematic, 17 particularly for people who may be around and observing 18 that behaviour. So that might be one example. 19 Q. And problematic behaviours would be those which, as 20 I understand from your continuum, to be developmentally 21 unusual and socially unexpected. However, I think it's 22 clear from this continuum and from the use of the words 23 "harmful sexual behaviour" that at no time are we 24 suggesting that there is some form of intent. It seems 25 to me that your terminology seems to identify that the</p> <p style="text-align: center;">Page 166</p>
<p>1 harm is if the individual to whom the sexual activity is 2 directed finds it harmful, that that's the ultimate 3 badge that one puts on it. Is that right? 4 A. Yes, I think definitions of sexual abuse or sexual harm 5 that infer intent are innately problematic, and in this 6 context, and certainly across all of this continuum, my 7 understanding of these behaviours is that we are talking 8 about victimising impact rather than, necessarily, 9 intent to cause harm in some cases. 10 Q. However, I think you identify, even within this 11 continuum and within your report at paragraph 2.12 -- 12 Ralph, would you mind getting that up, _008 -- that even 13 normative and healthy forms of sexual expression can 14 then be viewed as evidence of further harmful sexual 15 behaviour, and you identify the idea that progressing 16 through the continuum is neither inevitable nor one-way 17 traffic and that, therefore, we need to be very careful 18 and see children's behaviour as much more nuanced and 19 fluid than perhaps has been the case during research and 20 during clinical work in the past. Is that right? 21 A. That's entirely right. I think there have been some 22 cases and examples where children have, in essence, been 23 defined forever by the worst thing they have ever done 24 and that any future, then, expressions of maybe more 25 pro-social sexuality or sexual behaviour are seen</p> <p style="text-align: center;">Page 167</p>	<p>1 through a particular lens. I think it's very important 2 for practitioners to be able to use this kind of 3 a model -- it is just one model -- to be able to have 4 a much more balanced approach to children's sexual 5 behaviour that helps them and responds to them in a way 6 that's commensurate with the range of behaviours that 7 they're expressing. 8 The other implication here is, of course, that if we 9 are talking about behaviours that are pro-social and 10 healthy, the professional task may be about supporting 11 those behaviours, not about -- in an appropriate 12 context, rather than squashing or stopping them. 13 Conversely, significant effort might need to be put 14 into preventing, managing and educating children about 15 the inappropriateness of certain behaviours towards the 16 upper end of that continuum. 17 Q. So we have talked a little bit about the continuum which 18 exists, but you also provide us with some information 19 about the developmental pathways that might lead to 20 individuals demonstrating problematic, abusive and 21 violent, which is the right-hand side of your continuum. 22 You start that at -- you identify that throughout your 23 report, but at paragraphs 6.15 through to 6.21, you 24 identify this in some detail. Ralph, 049, please. You 25 identify a model where there are specific offence</p> <p style="text-align: center;">Page 168</p>

<p>1 pathways with separate aetiologies and underlying 2 deficits. Now, in layperson's language, because 3 obviously we are sort of live stream for the public as 4 well as for academics, what is this particular research 5 trying to tell us about the pathways which may lead 6 young people to commit acts of sexually harmful 7 behaviour? 8 A. Apologies for the jargon. 9 Q. We all use it, so ...? 10 A. I think what I'm trying to say, and to challenge, is the 11 notion that all children behaving in a harmful sexual 12 way do so for the same reasons, that, actually, there's 13 a range of causes and influences on those children. 14 There is no one simple cause for harmful sexual 15 behaviour. And that it's a complex mix of perhaps 16 biological influences, the onset of puberty and sexual 17 development through childhood is a key influencer in 18 children's interests and behaviours as they progress 19 through adolescence, but those are given shape in given 20 children's particular experiences and their earlier 21 childhood experiences, the cultural context and the 22 environmental context in which they live. So this is 23 where the residential environments may come very 24 squarely into focus, really, about the way in which they 25 support appropriate expression of sexual behaviour in</p> <p style="text-align: center;">Page 169</p>	<p>1 children or not or put rules around what might be 2 appropriate. 3 Then that leads us into this idea on -- that I have 4 set out in the paper about different pathways that, 5 actually, children's influences in terms of their 6 behaviours are very complex and multifaceted, but that 7 doesn't mean to say that we can't pick out some common 8 core pathways that seem to be influential in children's 9 behaviours and that, in essence, this particular model 10 that Ward and Siegert first proposed talks about four 11 core pathways, the first one being intimacy and social 12 skills deficit, and we know that a significant 13 proportion of children presenting with harmful sexual 14 behaviours have underlying intimacy problems and social 15 skills deficits that make it harder for them because, 16 perhaps, of their earlier attachment experiences, harder 17 for them then to establish appropriate intimate 18 relationships, particularly in adolescence. That's 19 a particular pathway that's been described. 20 The second pathway is one of distorted sexual 21 scripts. This is, again, jargon, but what that 22 particularly means -- 23 Q. What does that mean? 24 A. That particularly means children who have themselves 25 experienced sexualisation through abuse or particularly</p> <p style="text-align: center;">Page 170</p>
<p>1 trauma -- the trauma of sexual abuse, who, in a sense, 2 take their reference point then, as they develop through 3 childhood and adolescence, from that experience. So the 4 experience of victimisation is very significant for them 5 in setting the scene for them in their understanding of 6 issues to do with sex and how you, as a young person, 7 may have your sexual needs met. So these are kind of, 8 in a sense, a very close relationship for this 9 particular group of children, between their experience 10 of being victimised and their subsequent harmful sexual 11 behaviour. 12 Q. An example of that could be, we were talking about -- we 13 have been talking about C1 and C3 today and the sorts of 14 behaviours that they were displaying, where we know that 15 there has been trauma and neglect in their background 16 and highly suspect that, for at least C1, there was 17 sexual abuse that took place. 18 So are those the sorts of situations, when we are 19 looking at distorted sexual scripts, that children are 20 learning from the abuse that has been inflicted upon 21 them and, therefore, behave in an overly sexualised 22 manner for their age and stage? 23 A. That's right, and there is considerable research that's 24 been done over a number of decades about the effects of 25 sexual abuse on children that's highlighted this</p> <p style="text-align: center;">Page 171</p>	<p>1 particular issue of sexualisation or traumatic 2 sexualisation as it has been called. 3 Q. Then we have got another pathway, which is emotional 4 dysregulation, which, again, is a term that I would 5 quite like you to explain? 6 A. This is more linked to children whose, perhaps, 7 influences upon them make it more difficult for them to 8 deal with anger or pervasively difficult negative mood 9 states. The idea here is that, for a particular group 10 of children, they may then resort to more aggressive 11 ways of interacting with others sexually and 12 nonsexually. Hence this notion of emotional 13 dysregulation; an inability to manage difficult feelings 14 throughout childhood and adolescence. 15 This particular pathway I think is closely 16 associated with a group of young people who have, if you 17 like, antisocial thinking, where their beliefs and 18 underlying attitudes are supportive of rule breaking or 19 boundary violation. Often, this is a group of children 20 and young people who, earlier in their childhoods, may 21 have been labelled as having conduct problems or conduct 22 disorder who, with the onset of puberty, seem to 23 sexualise those earlier conduct problems. 24 Q. So would they be -- I'm just thinking about some 25 examples of gangs -- for example, gang members who might</p> <p style="text-align: center;">Page 172</p>

<p>1 engage in sexually abusive behaviours towards women or 2 towards people of their own gender as part and parcel of 3 a wider expression of a number of conduct disorders -- 4 a number of antisocial acts, so to speak? 5 A. Yes, that's right. If your model as a young person, and 6 in dealing with other people, is through violence and 7 intimidation and threats, if that's how you've been 8 taught to get your needs met, then it's unsurprising 9 that those young people would resort -- would also 10 extend that to the sexual aspects of their presentation 11 as well as their nonsexual dealing with other people. 12 Q. Then the last one, at 6.19 -- Ralph, would you mind 13 going to the next page, _050 -- that's identified within 14 this theoretical model is what's called multiple 15 pathways? 16 A. This is when researchers cop out, isn't it, and say, "In 17 some cases, there is just a mixture of all of these 18 different factors", because the complexity of children 19 and young people's lives is such that they're subject to 20 multiple influences. 21 Q. Does this apply both to adolescents but also to younger 22 children? What do we know about sexually harmful 23 behaviour in respect of younger children? 24 A. So this is a theoretical, rather speculative model. 25 I think it applies particularly to adolescents. I think</p> <p style="text-align: center;">Page 173</p>	<p>1 it is less useful in terms of younger children. The 2 general thinking about younger children or 3 pre-adolescent children with sexual behaviour problems 4 is that they're much more likely to have been influenced 5 by an experience of underlying trauma themselves, 6 particularly around sexualisation through abuse. 7 Q. But if I can just identify, you also identify at this 8 part of your report, at 6.13, it is now recognised that, 9 in fact, peak likelihood for harmful sexual behaviours, 10 on the basis of the studies that we currently have -- 11 and I think we all have to say those studies are 12 somewhat patchy in nature -- that the onset of puberty 13 is now the peak time for the development of sexually 14 abusive behaviours in male adolescents; is that right? 15 That's _048, please, Ralph. 16 A. Yes. Certainly demographics that looked at the age of 17 onset have challenged the notion that this is just 18 a problem that emerges later on in adolescence. It 19 appears that there is something going on for younger 20 people at the onset of puberty. Of course, we need to 21 understand that in the context of, you know, the 22 increased importance and salience that sex and sexuality 23 has for teenagers, given hormonal change at the onset of 24 puberty. I think what often happens, therefore, is 25 that, for this particular -- at this particular time,</p> <p style="text-align: center;">Page 174</p>
<p>1 nonsexual difficulties that have been present for many 2 years in children's backgrounds become sexualised. 3 Q. They become directed to sexualised because one's 4 hormones and one's development is at that stage whereby 5 one's sexual identity, one's ability to perform sex, is 6 being developed; is that right? 7 A. Yes, and we would expect young people at this stage of 8 their development to be thinking more about sex than 9 they had previously. 10 Q. Generally? 11 A. Generally, yes. 12 Q. As well, of course, interestingly, however, it is likely 13 to be the time, the start of adolescence, when children 14 would start attending boarding schools, particularly for 15 men. I'm thinking of the ages of 11 to 13. There is 16 quite a big jump in the number of boys. So you're 17 talking about a number of adolescents, if they have got 18 factors which might be in their previous life, all 19 suddenly living together in one place? 20 A. Yes. I mean, in some senses, it is a bit of a perfect 21 storm of developmental change and also change in young 22 people's life circumstances, and I guess there's 23 a potential for an interaction between those things. 24 MS SCOLDING: I note the time, chair and panel. Would now 25 be an appropriate moment for us to break?</p> <p style="text-align: center;">Page 175</p>	<p>1 THE CHAIR: Yes, we will return at 3.25 pm. 2 MS SCOLDING: Professor Hackett, you are under oath, so, 3 please, you can talk about anything but not about your 4 evidence to anyone. Thank you very much. 5 (3.11 pm) 6 (A short break) 7 (3.27 pm) 8 MS SCOLDING: Professor Hackett, when we left off, we had 9 just finished off talking about pathways towards 10 potentially being a young person who would engage in 11 sexually harmful behaviour. We are obviously 12 particularly interested in the experiences of children 13 and young people who have disabilities and you identify 14 in some research you undertook in 2013, which is at 15 paragraph 6.28 of your report, that a significant 16 proportion of all young people who come to the attention 17 of professional services have some form of learning or 18 intellectual disability. You identified it was 19 38 per cent; is that right? 20 A. It is, yes. This is in a study across nine or ten 21 sites, I can't remember which, across the UK providing 22 services for young people with harmful sexual behaviour. 23 We looked at all of the cases that had been referred 24 over a nine-year period and, as you say, 38 per cent of 25 that total sample had some form of learning disability</p> <p style="text-align: center;">Page 176</p>

<p>1 or intellectual disability, although I have to say that 2 some caution needs to be applied to that figure. 3 Q. I was going to identify, is it the case -- you identify 4 further on in your report that these young people may 5 well be more likely to come to the attention of 6 professional services for a variety of reasons. It is 7 not necessarily that they perpetrate more sexually 8 harmful behaviour. It is simply that they are more 9 likely to be identified as such. Could you tell us 10 a little bit about that, please? 11 A. I think one of my hypotheses or thoughts is that -- or 12 findings, looking at the experience of the cases that we 13 looked at, was that these were children who were 14 particularly visible to professionals because they were 15 living in either residential contexts or subject to 16 a level of scrutiny that non-disabled children living in 17 the community were not subject to, and, therefore, their 18 behaviours were more likely, I think, to be picked up 19 and identified as problematic, not because, necessarily, 20 of the behaviour, but because of the learning 21 disability, or indeed the way in which that young person 22 was viewed because of their learning disabilities. 23 Q. I think you also -- I think at one point you also 24 identified that those with learning disabilities, when 25 they do commit sexually problematic or sexually harmful</p> <p style="text-align: center;">Page 177</p>	<p>1 behaviours, they may well be a bit more obvious to spot, 2 so to speak, in broad terms? 3 A. I think some of the research has indicated that the 4 types of behaviour that children with learning 5 disabilities or intellectual disabilities may engage in 6 are more kind of naive and opportunistic and, therefore, 7 more likely to be picked up. In a sense, they don't 8 have the same level of sophistication in terms of hiding 9 those behaviours away from adults who may be critical of 10 them. Sorry, I just wanted to say that. Of course, 11 that's a gross characterisation of a whole range of 12 children and young people and I wouldn't want to make 13 that categorical distinction between disabled and 14 non-disabled children. 15 Q. You also identify quite carefully that those who have 16 harmful sexual behaviours who are disabled are just as 17 diverse a group as those who have harmful sexual 18 behaviours who are non-disabled. But we can identify, 19 and you do identify in your report, some of those, the 20 fact that there are some particular features which may 21 make sexually harmful behaviour more likely to happen or 22 more able to happen, and you identify this in your 23 report at 11.10 onwards. Ralph, _102. You give, 24 really, four reasons. Could you talk us through the 25 first, which is social isolation?</p> <p style="text-align: center;">Page 178</p>
<p>1 A. Yes. I mean, we referred before the break to the 2 factor, or the finding, that social isolation has often 3 been seen as a characteristic of children presenting 4 with harmful sexual behaviours, the idea being, or the 5 hypothesis being, that social isolation is a barrier 6 towards the achievement of normative sexual 7 relationships. Of course, children with learning 8 disabilities, and disabilities more generally, 9 experience social isolation at a significantly higher 10 rate and degree to non-disabled peers. I think that 11 perhaps, you know, indicated by the way in which they 12 perhaps are not able to live in their own communities, 13 they are sometimes -- 14 Q. They often -- they may be more likely to live in 15 residential institutions or with foster carers or away 16 from home and they may well not be able to participate 17 in the sort of normative adolescent experiences that 18 non-disabled children would? 19 A. That's right, and those kind of opportunities may give 20 non-disabled children more scope for the development of 21 sexual interaction with others and sexual 22 self-expression, if you like. 23 Q. Also, they're highly likely to be less supervised. In 24 a neuro-typical group of children at a disco, you might 25 have an adult, if they are 14 or 15, but if you were</p> <p style="text-align: center;">Page 179</p>	<p>1 dealing with a disco for children with learning 2 disabilities, you are likely to have a large number of 3 adults around. So those kinds of normative expressions 4 of sexual identity and sexual development will be much 5 more heavily patrolled and scrutinised, won't they? 6 A. Exactly. 7 Q. The second issue you raise, particularly in respect of 8 those with disabilities, is the fact that -- you say 9 this at 11.11, please, Ralph, further down the page -- 10 young people with disabilities have often been denied 11 sex education? 12 A. Yes. I think we have fairly good evidence from the 13 broader field around harmful sexual behaviour about the 14 preventative role that good sex education can play, and 15 that it has been the case that young people with 16 disabilities in the past have been denied the same level 17 of sex education as their non-disabled counterparts, and 18 this may feed into, you know, a vulnerability or a kind 19 of restrictive understanding around sex and sexual 20 relationships. 21 Q. In fact, you say, your last sentence: 22 "Restricting both sex education and opportunity for 23 appropriate sexual interactions is a toxic combination 24 which serves young people badly in terms of their 25 overall sexual development."</p> <p style="text-align: center;">Page 180</p>

<p>1 A. It sounds a bit pompous, but I do believe that.</p> <p>2 Q. Then the third point is, really, that children with</p> <p>3 disabilities are more particularly vulnerable to all</p> <p>4 forms of abuse?</p> <p>5 A. Yes, absolutely. I think in the past -- again, there is</p> <p>6 good evidence that children with disabilities,</p> <p>7 behaviours have been explained away as a consequence of</p> <p>8 the disability and that opportunities for understanding</p> <p>9 their experience of trauma or abuse have been missed,</p> <p>10 and we know that that's not the case, that disabled</p> <p>11 children are abused at a higher rate than non-disabled</p> <p>12 children, and so, in any population of -- like the</p> <p>13 38 per cent of young people that we saw in our study,</p> <p>14 a significant proportion of that group of young people</p> <p>15 with learning disabilities presenting with harmful</p> <p>16 sexual behaviour had themselves experience of trauma and</p> <p>17 abuse in their backgrounds.</p> <p>18 Q. I think at 11.13 you identify that there has been some</p> <p>19 research done which identifies that there has been those</p> <p>20 people who -- those young disabled people who have</p> <p>21 engaged in such behaviour are much more likely to have</p> <p>22 had all forms of abuse -- Ralph, _103, please --</p> <p>23 including higher rates not just of sexual abuse, but</p> <p>24 also physical abuse or have witnessed or experienced</p> <p>25 domestic violence as well?</p> <p style="text-align: center;">Page 181</p>	<p>1 A. Yes, this interaction between different experiences of</p> <p>2 trauma or disadvantage or adversity that interconnect</p> <p>3 with their experience of sexual abuse.</p> <p>4 Q. In particular, I think within your report you identify</p> <p>5 that a large number of children, whether disabled or</p> <p>6 neuro-typical, there is a history of some form of abuse</p> <p>7 or trauma, but it is often not just sexual abuse, but it</p> <p>8 is largely all forms of abuse, as we would recognise</p> <p>9 them -- emotional, physical, sexual and neglect?</p> <p>10 A. That's right, yes.</p> <p>11 Q. There are also some particular features which we heard</p> <p>12 about yesterday in respect of children with autism, and</p> <p>13 you identify this within your report at 11.18 onwards.</p> <p>14 Ralph, _105. Well, in fact, it is 11.17 onwards. So</p> <p>15 you identify there at 11.17:</p> <p>16 "... I would however strongly support the statement</p> <p>17 that some children with disabilities, especially those</p> <p>18 with Autism Spectrum Disorders and some forms of</p> <p>19 learning disability, do find it difficult to understand</p> <p>20 social cues about sexual interactions with others ...</p> <p>21 they may well misunderstand the appropriateness of</p> <p>22 certain sexual behaviours in certain social contexts."</p> <p>23 Could you tell us a little bit about that? We heard</p> <p>24 from both Ms Povey and Dame Christine Lenahan yesterday</p> <p>25 about some of the particular issues, but you've</p> <p style="text-align: center;">Page 182</p>
<p>1 particularly identified some research on this area.</p> <p>2 Would you like to help us with that?</p> <p>3 A. I would like to help with that. I think, as I put down</p> <p>4 in that part of the research -- in that part of</p> <p>5 the report, there's some tentative research about this.</p> <p>6 I think the people who are experts in Autistic Spectrum</p> <p>7 Disorders, learning disability, have long since talked</p> <p>8 about their -- the increased difficulty of interpreting</p> <p>9 social cues, and I think that that links very strongly</p> <p>10 to young people's abilities to understand sexual</p> <p>11 interactions or the sexual cues. These are things that</p> <p>12 young people generally find difficult through lack of</p> <p>13 experience. It's particularly more difficult for young</p> <p>14 people, you know, whose disability might make it --</p> <p>15 might compound those, you know, normal adolescent</p> <p>16 difficulties.</p> <p>17 Q. Particularly, you deal with the work of Connor from</p> <p>18 2007, which is at paragraph 11.19, Ralph, at the bottom</p> <p>19 of the page. You identify some specific additional</p> <p>20 factors. So, first, the one, lack of sociosexual</p> <p>21 knowledge. Complicated, you identified, with</p> <p>22 a discomfort among some parents in dealing with sex</p> <p>23 education because of the conflict that arises between</p> <p>24 the link between the sexual interests and the observed</p> <p>25 denial or even punitive reactions towards such features.</p> <p style="text-align: center;">Page 183</p>	<p>1 Perhaps you'd like to explain that?</p> <p>2 A. That's Connor's point, but I think it is certainly</p> <p>3 something I have seen in cases where there has been</p> <p>4 a tendency on the part of professionals, or indeed</p> <p>5 carers, to infantilise young people with learning</p> <p>6 disabilities; not really see them as sexual beings or</p> <p>7 having the same kind of sexual rights or legitimacy to</p> <p>8 express their sexuality as other young people because of</p> <p>9 their perspectives on their disability itself. So</p> <p>10 I think it is not just that children and young people</p> <p>11 lack education about these matters, but also sometimes</p> <p>12 carers and parents too.</p> <p>13 Q. You have also identified segregation by gender might</p> <p>14 also be the case. Now, at the moment, it is the case</p> <p>15 that significantly more young men than young women are</p> <p>16 diagnosed with autism, and we heard from Ms Povey</p> <p>17 yesterday that that doesn't necessarily mean that there</p> <p>18 is a difference in the rates of those with autism, it is</p> <p>19 simply the diagnosis. Does that make a difference, in</p> <p>20 terms of interaction opportunities, according to the</p> <p>21 research of Connor, anyway?</p> <p>22 A. Yes, certainly Connor's point being that segregation</p> <p>23 cuts down on opportunity for certain types of sexual</p> <p>24 exploration, experience for some young people, and that</p> <p>25 this is often a feature of young people with learning</p> <p style="text-align: center;">Page 184</p>

1 **disabilities' experience.**
 2 Q. And also difficulties with an ability to understand
 3 particularly the sort of informal rules that govern so
 4 much sexual conduct between both adolescents and adults,
 5 which is neither explicit and often isn't literal?
 6 **A. That's right. This is, again, possibly where there is**
 7 **an interactive effect or an interaction between the**
 8 **disability and also the social context in which young**
 9 **people are often placed.**
 10 Q. Then, lastly, intimacy. I think you've already
 11 identified this, that there is unlikely to be the
 12 opportunity for intimacy for those with Autistic
 13 Spectrum Disorder if they understand the concept
 14 necessarily of intimacy in the way that we would because
 15 of the nature of their disabilities?
 16 **A. And I think that links to one of the pathways we talked**
 17 **about before, this kind of intimacy deficit pathway.**
 18 **That might be particularly significant again for the**
 19 **reasons set out.**
 20 Q. We have identified some sort of examples of that in
 21 a school. We are not going to name the school or the
 22 individual. But in a school that this investigation has
 23 looked at, one can see, for example, adolescents with
 24 Autistic Spectrum Disorder sexting each other pictures
 25 of penises or going on to group sex chats or things like

Page 185

1 not go on to abuse others -- this is at _056, please,
 2 Ralph -- and that the notion of the victim-to-abuser
 3 cycle may be misconstrued. Would you like to give us
 4 some assistance with that, please?
 5 **A. I think it's -- if we accept that a significant**
 6 **proportion of children who are presenting with harmful**
 7 **sexual behaviour themselves have been subjected to abuse**
 8 **and trauma in their backgrounds, then we rightly begin**
 9 **to understand the influences on their behaviour and the**
 10 **kind of response that we need to give them that's not**
 11 **just about managing their behaviour, but understanding**
 12 **the totality of that abuse experience. That's a really**
 13 **important link for us to make, but we have to exercise**
 14 **caution that that's not -- that's a retrospective link,**
 15 **it's not a prospective or predictive link. So we can't**
 16 **say that children -- the vast majority of children who**
 17 **experience abuse are going to, therefore, be vulnerable**
 18 **to going on to abuse others or display harmful sexual**
 19 **behaviours.**
 20 **We know that the majority of victims of sexual abuse**
 21 **don't, and, therefore, I think, you know, one of the key**
 22 **questions for practice is, therefore, how we understand**
 23 **the differences between those who do, if you like, fall**
 24 **foul of their abuse experience and those who don't, and**
 25 **I think we have some clues about that.**

Page 187

1 that, and that being a very complicated thing for those
 2 sorts of schools to deal with because there is a tension
 3 between that, possibly, these days, being a normal part
 4 of sexual development -- it appears that sending images
 5 of your penis is so common as to almost be unremarked
 6 upon by adolescents -- and how much of that has to be
 7 managed, particularly given the particular
 8 vulnerabilities of those with ASD. Do you have any
 9 views you'd like to express about that?
 10 **A. I think it's the whole example of sexting, and the**
 11 **frequency by which sexting appears to be occurring**
 12 **amongst young people once again highlights the**
 13 **additional challenges for young people with particular**
 14 **disabilities in understanding and managing those kinds**
 15 **of behaviours in any way safely. So I think it --**
 16 **again, you quite rightly highlight the vulnerability of**
 17 **young people to exploitation from others through those**
 18 **behaviours that made it, you know, more intense because**
 19 **of the presence of the disability or the impact of their**
 20 **disability.**
 21 Q. Just to clarify, however, in respect of those who
 22 demonstrate sexual harmful behaviour, at various places
 23 in your report, but in particular at paragraphs 7.6 to
 24 7.7, you identify quite clearly that the overwhelming
 25 majority of those who have been the subject of abuse do

Page 186

1 Q. What clues do we have about that?
 2 **A. In, certainly, my outcome study, when we looked at this**
 3 **particular issue into long-term outcomes for children**
 4 **into adulthood, some of the things that really mattered**
 5 **that helped people deal with their experiences of abuse**
 6 **in a way that didn't lead them into further behavioural**
 7 **problem were things like stability of their living**
 8 **context, the availability of supportive adults in their**
 9 **life, their ability to achieve intimate partner**
 10 **relationships, the completion of education and their**
 11 **ability to, therefore, have some kind of meaningful**
 12 **endeavour and activity within their lives. All of these**
 13 **factors that are, if you like, environmental appear to**
 14 **be the things that -- and relational -- appear to be the**
 15 **things that seem to make a difference for children.**
 16 Q. So when we were talking about C1 earlier, I don't think
 17 you saw the evidence of the social worker, Ms Curtis.
 18 She identified that one of the difficulties with
 19 children who have experienced or have perpetrated
 20 harmful sexual behaviour on others who are in the care
 21 system is they will often go through a series of
 22 placements which will then break down, which, in a way,
 23 on your model of outcomes, potentially is a negative
 24 factor in terms of whether they may then themselves go
 25 on to abuse in terms of the fact they might not

Page 188

1 necessarily have the stability of attachment and
 2 relationships through adolescence that you are
 3 suggesting is a protective factor?
 4 **A. The instability of professional responses to this issue**
 5 **sometimes may compound the problems that young people**
 6 **have, I think. So I would absolutely support that, and**
 7 **that's what we found in our study.**
 8 **Those who did the best after exposure to abuse and**
 9 **harmful sexual behaviour were those who had stable and**
 10 **supportive relationships.**
 11 Q. So those who were already in the care of the state,
 12 arguably there needs to be a lot more work done in
 13 respect of making sure that there is stability of
 14 relationships, where the familial relationship has
 15 broken down, often because of the abuse?
 16 **A. I think so. In our study, some of the young people who**
 17 **did really well were those who were in the care of**
 18 **the state, but they'd found people who stuck with them**
 19 **through thick and thin, and also through developmental**
 20 **transitions, so they weren't cut off from those supports**
 21 **by the time that they reached, you know, this arbitrary**
 22 **age of 18 and were no longer within the system.**
 23 Q. I'm just thinking a very positive example of that is the
 24 evidence of A6, who came to give us evidence yesterday,
 25 who identified that he found foster carers who provided

Page 189

1 identify as a hypothesised model for explaining
 2 associations between victimisation and harmful sexual
 3 behaviour. Would you like to just talk us through this
 4 model a little bit?
 5 **A. This is where my predilection for models comes back to**
 6 **bite me, doesn't it?**
 7 **What I'm trying to do here is to answer a question**
 8 **that sometimes people find difficult, which is, why**
 9 **might it be that an experience of, say, physical abuse**
 10 **or neglect or emotional abuse might impact upon a child**
 11 **for them then to engage in a behaviour that is sexual?**
 12 **Sometimes people can see the obvious direct relationship**
 13 **between an experience of sexual abuse and then**
 14 **problematic or harmful sexual behaviour. What this**
 15 **model tries to do is to say that there are some direct**
 16 **mechanisms or impacts, if you like, between exposure to**
 17 **different types of abuse, but there may be some indirect**
 18 **ones as well that may contribute to these pathways we**
 19 **were talking about before.**
 20 **So, for instance, neglect, physical abuse and**
 21 **emotional abuse may contribute towards children by**
 22 **increasing their sense of social isolation or poor**
 23 **attachment experiences or, you know, low self-esteem or**
 24 **feelings of inadequacy, low levels of social competency**
 25 **and interactions with others. In a sense, these then**

Page 191

1 him with a great deal of stability throughout his
 2 adolescence and who he still sees now. One can see he
 3 was -- he holds down a job, he is a very responsible
 4 member of our society. So I think we can see an example
 5 of your research in action, so to speak, within the
 6 context of this investigation.
 7 You do make reference to a term that you call
 8 polyvictimisation, and you identify this at
 9 paragraph 7.21 of your report. Ralph, 060. Could you
 10 tell us a little bit about what that is and how it is
 11 helpful?
 12 **A. Yes, I should say it is not my term.**
 13 Q. I know it is not your term.
 14 **A. I'm not culpable for that --**
 15 Q. That abuse of the English language?
 16 **A. Polyvictimisation is really a fancy term for young**
 17 **people with multiple types of abuse experience, the**
 18 **notion being that no one single experience of abuse, or**
 19 **type of abuse, is as harmful as the cumulative impact of**
 20 **different types of abuse.**
 21 **So sexual abuse within the context of domestic**
 22 **violence and neglect and physical abuse having a much**
 23 **more -- a cumulatively more damaging impact on children.**
 24 **That's the notion of polyvictimisation.**
 25 Q. You identify this handily in a model at 063, which you

Page 190

1 **might make it more difficult for them to make intimate**
 2 **partner relationships or appropriate relationships as**
 3 **they go through their childhood.**
 4 **So, in a sense, these are indirect as well as direct**
 5 **mechanisms from different types of abuse.**
 6 Q. Obviously they all interact with each other as well, I'm
 7 assuming?
 8 **A. Yes, absolutely. This is just, really, an attempt to**
 9 **say that trauma and abuse are the underpinning**
 10 **foundations of this behaviour; not necessarily one type**
 11 **of trauma, but all of them may play a part and they may**
 12 **interact with each other.**
 13 Q. So now that we have had a discussion about the sorts of
 14 behaviours that one might see and the sorts of reasons
 15 why this might occur, I'd like to ask you a few
 16 questions about the prevalence and likelihood of this
 17 happening in out-of-home residential settings.
 18 Now, the first thing I think you say within your
 19 report is that there is scant specific attention in any
 20 literature to any discussion of sexually harmful
 21 behaviour between children in any residential setting,
 22 let alone residential schools or special schools, and
 23 you say this at 8.16 and 8.17 of your report. Ralph,
 24 _069.
 25 I think what you basically say is, there isn't very

Page 192

1 much research at all?
 2 **A. That's right. I say it less articulately than that.**
 3 **But, yes, I can't find a huge amount of specific**
 4 **literature that has looked at special school contexts.**
 5 **There's a bit more on residential establishments and**
 6 **residential care settings more generally. But it's not**
 7 **been a feature of very -- you know, significant research**
 8 **to date.**
 9 Q. But what you do identify at 8.22 -- Ralph, _070 -- is
 10 that you think probably in around half of cases, or
 11 a study found from quite a while ago that in half the
 12 cases reported by children in care via a telephone
 13 helpline involved a peer and other research said sexual
 14 abuse in care involved a male perpetrator who also lived
 15 in the same institution.
 16 At 8.24 -- Ralph, top of the next page, _071 -- you
 17 identify that about half of sexual abuse cases in
 18 residential care refer to peer abuse?
 19 **A. I think, you know, small studies, not necessarily**
 20 **current studies. We need more evidence on this.**
 21 **However, the existing data seems to suggest that that**
 22 **is -- that the rate of sexual abuse within residential**
 23 **care settings is about a half of all cases and relates**
 24 **to a peer who perpetrates that abuse.**
 25 Q. Although we don't have any research about children in

Page 193

1 children -- APP000064_022. Can we go to paragraph 84,
 2 which is the bottom of the previous page, _021:
 3 "In writing and doing this research ... what is
 4 striking is that the types of sexually harmful behaviour
 5 have not changed since ATC opened."
 6 That's the name of her institution:
 7 "They have and do include, in order of frequency:
 8 "Language of a sexual nature ...
 9 "Exposing of genitals to others briefly or stripping
 10 off completely and running around.
 11 "Masturbating ... frequently.
 12 "Touching other's genitals ..."
 13 And then actual penetrative sexual activity of one
 14 form or another.
 15 She then says they do so because of what they have
 16 experienced, and I think we have talked about all these
 17 children are coming to that school who have had
 18 significant experiences of trauma and neglect. They are
 19 all looked after by the state and they all have
 20 histories often of multiple placement breakdowns before
 21 they come here:
 22 "It is difficult to generalise about what is
 23 normal ..."
 24 At paragraph 87 -- Ralph, would you mind going down
 25 to paragraph 87. She says:

Page 195

1 residential special school settings, at 8.26, you point
 2 to some research from somebody called Fyson. Would you
 3 like to tell us a little bit about what that found?
 4 **A. Fyson's research is on special schools, and the reported**
 5 **incidents of harmful sexual behaviours are not**
 6 **necessarily a residential special setting but a special**
 7 **school context. She found that sexually inappropriate**
 8 **behaviour was commonplace in the school environment.**
 9 **About 88 per cent of the schools experienced children**
 10 **reporting in sexually inappropriate ways. Around**
 11 **two-thirds reported incidents at least once a term and**
 12 **about one-fifth of the schools said it was on a weekly**
 13 **basis. In other words, these are frequent behaviours**
 14 **that special schools are needing to try to manage and**
 15 **get to grips with.**
 16 Q. In particular, one can see that public masturbation or
 17 inappropriate touch were by far and away the most common
 18 sorts of inappropriate sexual behaviour that one would
 19 see, but there was at least 15 per cent of times where
 20 there would be actual or attempted bodily penetration?
 21 **A. That's correct.**
 22 Q. Now, can I take you to the witness statement of
 23 Clair Davies, who is the head teacher of
 24 Appletree School. She identifies the types of sexually
 25 harmful behaviour that they routinely see in their

Page 194

1 "This is particularly true when you take into
 2 account that, developmentally, our children are at
 3 toddler or even baby age."
 4 Therefore, you wouldn't necessarily make references
 5 to a safeguarding team if a baby was stripping off or
 6 touching their penis or vagina in a public place.
 7 Do you think what Clair Davies identifies is kind of
 8 similar, or what one would have expected, given the
 9 research of Fyson in terms of the level of inappropriate
 10 sexual behaviours that are demonstrated in a special
 11 school environment?
 12 **A. First of all, Fyson's research is primarily or**
 13 **exclusively on adolescents, not on younger children.**
 14 Q. Okay.
 15 **A. So there is, I think, a similar list of behaviours that**
 16 **she indicated to the ones that are indicated in this**
 17 **witness statement.**
 18 **But I think we are talking about the difference**
 19 **between preadolescence --**
 20 Q. All of these children are between the ages of sort of 6
 21 and 12, so the upper age group might be just hitting
 22 puberty, but largely they are pre-adolescent children?
 23 **A. I think, again, revisiting the notion of the continuum**
 24 **of sexual behaviour, some behaviours that are**
 25 **developmentally expected or problematic in late teens --**

Page 196

<p>1 sorry, that are developmentally expected or 2 unproblematic in late teens may be very developmentally 3 problematic in younger children. So, for instance, here 4 it cites language of a sexual nature and frequent 5 masturbation as being behaviour. Now, obviously, those 6 are things that might be developmentally normal in late 7 teenagers, but developmentally way out of step for 8 younger children. I think what I get from this list is 9 that it seems to be reflective of a group of younger 10 children who have been highly sexualised through their 11 experiences of trauma and abuse.</p> <p>12 Q. Also, the complexity of trying to manage those kinds of 13 behaviours, do you have anything you'd like to say about 14 how difficult it can be for any institution or 15 organisation to try to manage those kinds of behaviours?</p> <p>16 A. That it is difficult. I mean, in particular, this 17 mixture of children with different presenting problems 18 and, again, they -- it is not just that institutions are 19 dealing with an individual child's behaviour, but 20 managing that within the context of peer groups when so 21 many children are presenting with these kinds of 22 behaviours I think is a really complex and challenging 23 task.</p> <p>24 Q. There hasn't been very much -- there haven't been very 25 many studies, as we have already said, but there have</p> <p style="text-align: center;">Page 197</p>	<p>1 been some studies which seem to suggest that 2 institutional culture could be one of the main factors 3 which influences the expression of harmful sexual 4 behaviour in care settings. You identify this between 5 paragraphs 8.29 through to 8.33 of your report. So 6 that's _072 through to _074. Could you tell us a little 7 bit about how institutional cultures and responses can 8 impact upon the prevalence or the demonstration of 9 sexually harmful behaviours amongst children and 10 adolescents?</p> <p>11 A. I mean, I think it is pretty self-evident that 12 institutional culture, practices, rules and the extent 13 to which children are supported, the extent to which 14 children's voices are heard, will have a direct impact 15 upon how happy, how healthy and how children are within 16 any given institution, and how, in a sense, they are 17 supported to meet their developmental needs.</p> <p>18 Therefore, I think that -- and the evidence seems to 19 support this -- cultures that don't support children in 20 that way are more likely to be ones that run into 21 difficulty not just with children's general behaviour, 22 but also their sexual behaviour.</p> <p>23 Q. One of the studies talks about macho care culture, so 24 circumstances in which sexist jokes, homophobic jokes, 25 sexism and homophobia and various forms of</p> <p style="text-align: center;">Page 198</p>
<p>1 hypermasculinity are seen as acceptable may be 2 institutions where sexually harmful behaviour may be 3 more acceptable or more prevalent?</p> <p>4 A. Yes, and in a sense, those kinds of cultures may, in 5 young people's minds, legitimise their expression of 6 harmful sexual behaviour because, in a sense, what they 7 see around them is being modelled -- sorry, what they 8 see around them models their own behaviours. So, in 9 a sense, these kinds of cultures give expression to, and 10 contribute to, the likelihood of these behaviours being 11 expressed and make it more difficult for children to get 12 help for things that are going wrong for them sexually.</p> <p>13 Q. It is not just a situation where that sort of behaviour 14 takes place, but you also identify at 8.32 -- Ralph, the 15 next page, _073 -- that a sexualised culture where 16 sexuality is constantly in the air, however there is no 17 formal discussion of it, can also be a very problematic 18 institutional culture for adolescents, particularly 19 adolescents, to live in, in terms of performing 20 appropriate, rather than inappropriate, sexual 21 behaviours?</p> <p>22 A. Yes. This particular study I'm referring to here looked 23 at a range of children's homes, and in those where they 24 found these kind of sexualised cultures, it was more 25 difficult for children to get help. Their sexuality was</p> <p style="text-align: center;">Page 199</p>	<p>1 barely discussed. This created a lack of clarity for 2 children about sexuality and their own boundaries and, 3 in this particular study, these were also homes that 4 were slightly cut off from the outside world, so there 5 was no external reference point for these children to 6 get support from as well.</p> <p>7 Q. But I think, from what we heard from Dame Christine 8 Lenehan yesterday, who carried out quite a recent study 9 into residential special schools, she identified that 10 a number of residential special schools are quite 11 geographically isolated and physically isolated with 12 a relatively small staff grouping. For example, they 13 may well be the small town's largest employer, so 14 everybody tends to be related to each other. Is that 15 something that Parkin and Green were looking at when 16 they were doing their research, that sort of isolation, 17 or were they talking about isolation in terms of 18 the institution only looking inward rather than outward?</p> <p>19 A. I think a little bit of both, but particular concern 20 about geographically remote institutions and the use of 21 them to manage children with harmful sexual behaviours 22 by taking them away from other children and how that may 23 isolate them in terms of support.</p> <p>24 I would say that, you know, this is rather dated 25 research now, so Christine Lenehan's research may be</p> <p style="text-align: center;">Page 200</p>

<p>1 a more useful source for this.</p> <p>2 Q. You also identify various other issues, and in</p> <p>3 particular at paragraph 8.34 -- Ralph, the next page,</p> <p>4 please, _074 -- you say in your own experience of</p> <p>5 working with care providers on this issue over many</p> <p>6 years:</p> <p>7 "I have seen how practice can veer from complete</p> <p>8 overreaction to children's sexual behaviour, on the one</p> <p>9 hand, to abject failure to act ... however, the</p> <p>10 historical tendency to view incidents of peer sexual</p> <p>11 abuse through a lens of 'mere adolescent</p> <p>12 experimentation' ..."</p> <p>13 Would you like to tell us a little bit about that</p> <p>14 and about your own experience of sort of working with</p> <p>15 care providers in this field?</p> <p>16 A. I think this perhaps goes back to the notion of</p> <p>17 a continuum again, so it is not just about a continuum</p> <p>18 of behaviours but a continuum of responses to behaviours</p> <p>19 at these different levels. I've seen care providers and</p> <p>20 professionals more generally get it wrong both ends; in</p> <p>21 other words, be, you know, hugely risk averse to</p> <p>22 low-level behaviours where they actually should be</p> <p>23 providing a little bit of direction and supporting</p> <p>24 children, but then, you know, subjecting them to very,</p> <p>25 very intrusive interventions that, in a sense, don't</p> <p style="text-align: center;">Page 201</p>	<p>1 support that young person in their development very</p> <p>2 well, and, you know, stigmatise that young person</p> <p>3 inappropriately and further cut -- you know, add to</p> <p>4 social isolation, et cetera.</p> <p>5 So examples of complete overreaction and risk</p> <p>6 aversive practice and, at the other end of that</p> <p>7 continuum, if you like, under-response, so where young</p> <p>8 people have committed quite serious acts of harm or</p> <p>9 abuse, where that's been explained away as just</p> <p>10 developmentally appropriate behaviour. This perhaps</p> <p>11 underlines again how important assessment is of</p> <p>12 the behaviours and the context in which the behaviours</p> <p>13 are expressed in order then to match that with</p> <p>14 appropriate responses.</p> <p>15 Q. Yes. In particular, just thinking about the need to</p> <p>16 have quite extensive information, which is not always</p> <p>17 available at the time of placement, about the context</p> <p>18 within which difficult sexual behaviours may have</p> <p>19 arisen?</p> <p>20 A. Yes. I think I've said elsewhere in the report that</p> <p>21 carers have reported that, because of, again, pressure</p> <p>22 to place young people, sometimes they don't get the full</p> <p>23 story, and how can they really deal properly with the --</p> <p>24 and know what they are dealing with and put in place</p> <p>25 appropriate behaviour and risk management plans if they</p> <p style="text-align: center;">Page 202</p>
<p>1 don't have the information about a young person's</p> <p>2 previous behaviours or needs or risks.</p> <p>3 Q. If we can turn on as well, you also identify in your</p> <p>4 report at 9.11 to 9.14 -- this is _083 onwards to 9.18,</p> <p>5 _085. You identify some core barriers to disclosure at</p> <p>6 9.17. Those are at the top of the page. Ralph, go back</p> <p>7 to _085. Could we get those up? So these are</p> <p>8 impediments to disclosure. That's right, isn't it?</p> <p>9 A. That's right. These come from a review -- a systematic</p> <p>10 review of different studies about children, barriers and</p> <p>11 facilitators for children's disclosure. It is just</p> <p>12 a summarised list of the most common --</p> <p>13 Q. That's lack of understanding from adults; fear of</p> <p>14 negative consequences; relational dynamics; and child's</p> <p>15 emotional response to the abuse, including guilt, shame</p> <p>16 and self-blame.</p> <p>17 Then the facilitators for disclosure -- because</p> <p>18 I think all the research shows that children don't</p> <p>19 spontaneously disclose abuse. If there are lots of</p> <p>20 discussions about those things, they might come and</p> <p>21 speak to somebody but they often don't do that. Ralph,</p> <p>22 can we go to 9.18, please, _085. Could you blow that up</p> <p>23 a little, please, for me? So these are the most</p> <p>24 significant facilitators, ie, the positive things that</p> <p>25 make it more likely that children will disclose that</p> <p style="text-align: center;">Page 203</p>	<p>1 sexual abuse has happened?</p> <p>2 A. That's right.</p> <p>3 Q. One of the issues I'm particularly thinking about here</p> <p>4 is, firstly, the availability of a trusted person to</p> <p>5 receive the disclosure. I'm thinking in the context of</p> <p>6 a residential school setting, those individuals may not</p> <p>7 be trusted. I mean, firstly, they may well have been,</p> <p>8 you know, part and parcel of what they see the</p> <p>9 institution which has caused the abuse, but, secondly,</p> <p>10 as well, they are not parents, who I imagine are likely</p> <p>11 to be the trusted person that you are talking about.</p> <p>12 Does that make it less likely that, in the context of</p> <p>13 a residential school setting, people will disclose</p> <p>14 abuse, or is it all just about the nature of</p> <p>15 the relationship?</p> <p>16 A. I wouldn't like to say that in certain residential</p> <p>17 school contexts there aren't people who are hugely</p> <p>18 trusted figures or who can act as advocates for</p> <p>19 children, to hear children's voices, et cetera. But</p> <p>20 I think the evidence does suggest that children are more</p> <p>21 likely to -- the most significant people that children</p> <p>22 are likely to disclose sexual abuse to are either</p> <p>23 parents or peers, and of course, if you are in</p> <p>24 a residential context away from parents, that may cut</p> <p>25 down on one avenue for natural disclosure, and if you</p> <p style="text-align: center;">Page 204</p>

<p>1 are being abused by your peers, that also cuts down the 2 second avenue for that -- for disclosure. 3 Q. You set that out in some detail at 9.21 and 9.22 of your 4 report. Ralph, would you mind just getting that up very 5 briefly, _086. 6 So, in the light of all of this, what can and should 7 residential institutions, residential schools, do to try 8 and deal with sexually harmful behaviour in a positive 9 manner to try and firstly minimise its occurrence and, 10 secondly, to try and deal with it effectively when it 11 happens? 12 A. I think those points under 9.18 may be particular 13 targets for -- 14 Q. Can we go back to 9.18, if you wouldn't mind, Ralph, 15 _085. 16 A. I guess, if I were working with residential providers, 17 I would be saying, "How are you doing, how are you 18 putting in place mechanisms for children to be able to 19 have these opportunities to -- or to challenge some of 20 the risk factors above that?" I think some -- you know, 21 no easy answers here, but I think the things that 22 I would emphasise are the availability of a trusted 23 adult. We have lots of evidence around children's 24 resilience in situations of adversity that suggest that 25 that's critical. So trusted adults, and long-term</p> <p style="text-align: center;">Page 205</p>	<p>1 support, attachment figures, key worker models may be 2 one way of doing that within a residential context, 3 trying to make sure that there isn't this kind of 4 instability of staffing, where it leaves children -- you 5 know, even if they have made relationships with them, 6 with kind of loss. And generally working on the notion 7 of culture that we were talking about before in order to 8 try to provide an overall culture in which there's 9 a high level of responsivity to children by staff. 10 Also, if we are thinking that other peers are often 11 the first sort of support for young people, then there 12 are interventions that have been tried and tested in 13 terms of mainstream schools -- for example, bystander 14 interventions with children that actually might be 15 effective in these kind of residential contexts. 16 Q. Perhaps you would like to explain briefly what 17 a bystander intervention is? 18 A. These are models that teach children to be able to 19 listen to and notice and pick up upon and know what to 20 do with information when they're worried about people 21 around them, so taking action and having a mechanism to 22 be able to deal with those kinds of concerns that they 23 have. So working with peers and trying to foster 24 a culture amongst young people that positively supports 25 and talks about, you know, the risks of harmful sexual</p> <p style="text-align: center;">Page 206</p>
<p>1 behaviour and abuse and harm and then gives them skills 2 and mechanisms to be able to deal with that. 3 Q. You also identify in your report at various points the 4 importance of staff having sufficient training and 5 experience in what is typical sexual development and 6 what isn't. So that the issues that you raised earlier 7 about there either being an overreaction or an 8 underreaction don't take place. Do you think, at the 9 moment, there isn't any particular need for any sort of 10 formal qualifications or formal training? I mean, there 11 has to be training, but it doesn't identify what that 12 is. From what you know of the sector, do you think 13 there is currently enough work being done with staff to 14 make sure that they have the appropriate skills and 15 understanding to be able to judge these often quite 16 nuanced and difficult situations? 17 A. Probably not. I think most of the training that staff 18 receive is in the form of very short courses. Often, 19 you know, a day-long course on a basic awareness of 20 harmful sexual behaviour. I wonder whether that equips 21 staff who are dealing with complex situations with 22 children day in, day out about how they should respond. 23 I think the other point I would make there in 24 relation to disability is perhaps that we have not been 25 very good in our professional system at sharing</p> <p style="text-align: center;">Page 207</p>	<p>1 expertise or expert knowledge between different systems, 2 so the child protection system and the field of harmful 3 sexual behaviour has typically -- has knowledge around 4 harmful sexual behaviour but not necessarily knowledge 5 around disability and, vice versa, the disability field 6 maybe doesn't have the more kind of forensic knowledge 7 around harmful sexual behaviour. We really need to be 8 integrating and bringing together these different 9 service strands in terms of supporting and pooling 10 knowledge and then disseminating that through training. 11 Q. Again, we have talked throughout your evidence about sex 12 and relationship education and sex and relationship 13 guidance. Now, that's being introduced as compulsory in 14 all schools. We heard yesterday from the charities that 15 are involved with numbers of individuals concerns that 16 they have about the fact that there isn't specific 17 guidance about dealing with children with disabilities 18 or there's not extensive training materials and manuals. 19 Do you think that that's one of those things that really 20 needs to be grappled with, that there really needs to be 21 kind of a concerted effort to have better sex and 22 relationship education in the residential special school 23 and in the special school sector generally? 24 A. I do. I think also, you know, particularly for children 25 who have complex histories of trauma and abuse already,</p> <p style="text-align: center;">Page 208</p>

1 **trying to help educate them about sex and sexuality and**
2 **sexual behaviour often means, also, it's not just about**
3 **delivering content with them, but it's also about,**
4 **really, their opportunities to understand and get to**
5 **grips with their own experiences of abuse and harm as**
6 **well. It is an additionally complex task, I think, for**
7 **those groups of children.**
8 Q. I suppose my last question, really, is, should children
9 who have displayed sexually harmful behaviour be placed
10 together with other children who have displayed sexually
11 harmful behaviour, or is it better to have them educated
12 in, or living in, separate environments? Do you have
13 any particular views about that?
14 **A. It is a very complex question to end with.**
15 Q. I always like to set you a teaser.
16 **A. I think, again, maybe we could come back to the notion**
17 **of a continuum of behaviours. Those at the far end of**
18 **that continuum, with very, very extensive and abusive**
19 **and violent behaviours are perhaps not best placed with**
20 **other children with similar types of behaviour. Perhaps**
21 **lower down that continuum, children with lower-level**
22 **behaviours can be appropriately placed, and there may be**
23 **some benefits of, you know --**
24 Q. Sharing experience, sharing, you know, "I did that too.
25 It was stupid"?

Page 209

1 Examination by MS BICARREGUI1
2
3 MS RACHEL CURTIS (sworn)83
4
5 Examination by MS BICARREGUI83
6
7 Questions from THE PANEL119
8
9 MR JONATHAN MORGAN (sworn)120
10
11 Examination by MS NIELD120
12
13 Questions from THE PANEL156
14
15 PROFESSOR SIMON HACKETT (affirmed)160
16
17 Examination by MS SCOLDING160
18
19
20
21
22
23
24
25

Page 211

1 **A. Or at least, you know, the kind of general --**
2 **challenging social isolation by being in peer groups,**
3 **et cetera. But I think, you know, again, those kinds of**
4 **placement decisions can only really be made in the**
5 **context of very good information about the extent of**
6 **the young person's problems, behaviours and needs.**
7 MS SCOLDING: Thank you very much, Professor Hackett. If
8 you would like to wait there, the chair and panel may
9 have some questions for you.
10 THE CHAIR: No, we don't have any questions. Thank you,
11 Professor Hackett.
12 MS SCOLDING: Thank you very much for coming,
13 Professor Hackett.
14 Chair, we have no further evidence for today, I'm
15 sure you will be pleased to hear. We will resume
16 tomorrow morning at 10.00 am, with your permission.
17 (4.16 pm)
18 (The hearing was adjourned to
19 Wednesday, 9 October 2019 at 10.00 am)
20
21
22 I N D E X
23
24 MS CLAIR DAVIES (affirmed)1
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Page 210

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A	50:16,25 51:2,21	abused 3:4 11:24	127:11,14,18	adjournment
A/1 2:1 121:9	53:10 55:17 63:16	36:24 37:14 40:7	128:17 134:13	120:15
A/2 2:2 121:9	63:19 65:24 67:10	75:3,8,22 90:10	acknowledge 4:7	adjustments
A/3 83:21	68:2 74:10 100:16	181:11 205:1	act 124:24 125:19	141:23
A/4 121:11	100:19,21 101:14	abusing 75:11	126:24 149:25	admission 39:15
A/5 121:11	111:1 115:15	90:24	151:15 163:9	admitted 37:17
A/7 124:19	abscension 101:8	abusive 4:25 36:15	201:9 204:18	58:2
A6 189:24	abscensions 54:1	37:6 54:15 94:5	acted 48:10 110:19	adolescence 169:19
ABE 127:11 144:23	101:6	165:1 168:20	acting 10:25 12:16	170:18 171:3
ABE1 134:2,8	absence 47:23 48:8	173:1 174:14	84:24	172:14 174:18
140:16	105:25 115:18	209:18	action 20:15 41:11	175:13 189:2
abilities 183:10	absolutely 10:12	academic 4:1 32:15	58:1 60:25 61:13	190:2
ability 66:11 103:1	17:6,13 19:20	161:18,19	66:16,20,21 78:2	adolescent 90:13
140:4 144:18	41:4 58:22 74:15	academically 11:14	101:2 102:15	179:17 183:15
155:3 175:5 185:2	79:22 89:2 106:7	academics 169:4	106:10,11 146:1	201:11
188:9,11	107:24 109:6	accept 16:12 36:6	190:5 206:21	adolescents 173:21
Ability/willingness	148:20 159:3	37:16 56:25 57:13	actioned 68:19	173:25 174:14
138:25	181:5 189:6 192:8	57:16 187:5	97:17 98:1	175:17 185:4,23
object 201:9	abuse 2:14 3:14	acceptable 15:13	actions 129:6	186:6 196:13
able 6:22 10:24	5:15 6:9,16,19	166:4,7,9 199:1,3	active 33:25	198:10 199:18,19
11:20 12:4,6 19:5	41:1,2 45:16	accepted 126:23	activities 10:22	adopted 165:3
26:20 33:6 44:22	61:20 71:5 73:2,3	access 6:2 33:20	11:9,16	adult 15:7 75:14
44:24 71:12,22	75:9 77:18 78:10	42:3,13 103:2	activity 2:14 47:3	109:17 151:8
82:8 83:11 86:2,5	78:12 89:14 93:10	115:19 116:6	60:12 75:10 96:24	179:25 205:23
87:25 88:7 94:24	106:9 107:19	117:1,10 133:8,10	97:8 163:17 167:1	adulthood 161:9
117:1,5,10 118:13	122:22 147:23	134:17 143:14	188:12 195:13	188:4
119:8 125:11,12	161:4,21 163:2,19	147:8	acts 8:25 9:2 10:1	adults 8:15 18:1
128:5 131:1	167:4 170:25	accessing 86:25	30:25 60:17 72:15	39:8 75:11 81:16
132:22 138:2	171:1,17,20,25	111:11	72:25 166:14	161:9 165:25
140:3 147:16	174:6 181:4,9,17	accommodated	169:6 173:4 202:8	166:5 178:9 180:3
154:5 158:11	181:22,23,24	74:11	actual 14:12 40:17	185:4 188:8
168:2,3 178:22	182:3,6,7,8	account 119:17,20	194:20 195:13	203:13 205:25
179:12,16 205:18	186:25 187:1,7,12	125:4 131:23	add 154:8 202:3	advantages 6:21
206:18,22 207:2	187:17,18,20,24	150:6,15 196:2	addition 157:21	adverse 156:1
207:15	188:5,25 189:8,15	accountable 28:9	additional 52:7	adversity 182:2
abscond 49:4 51:15	190:15,17,18,19	accounting 164:10	61:25 183:19	205:24
absconded 47:8	190:20,21,22	accounts 58:3	186:13	advice 22:20 31:6
53:22 54:4 60:13	191:9,10,13,17,20	accredited 143:25	additionally 209:6	33:20 69:10 71:8
63:15 64:17 101:9	191:21 192:5,9	accurate 150:25	address 82:7	106:14 114:11
112:7	193:14,17,18,22	accusing 55:21	153:13,18	131:25 132:7
absconding 9:13	193:24 197:11	achieve 154:17	addressed 98:6	advise 26:21 27:8
20:8 42:22 43:14	201:11 202:9	188:9	adequately 66:5	27:11
44:1 46:8,11,16	203:15,19 204:1,9	achieved 114:18	adhere 124:4	advised 57:25
46:24 47:21 48:12	204:14,22 207:1	achievement 179:6	adhered 122:13	advising 23:24
48:20 49:17 50:5	208:25 209:5	achieving 124:2	adjourned 210:18	advisor 25:11 27:9

advisors 22:6 23:3 23:18 30:4 31:5 advisory 23:5,7 28:6 Advocacy 63:6 advocates 63:3,5 204:18 aetiologies 169:1 affairs 137:20 affirmed 1:9 160:1 210:24 211:15 afraid 71:21 after-school 11:17 afternoon 113:6 120:22 122:25 123:8 160:3 Agbada 135:18,20 136:9 age 11:7 44:5 47:9 89:18 91:8 110:20 147:8 151:5,7 162:20 163:8 171:22 174:16 189:22 196:3,21 age-appropriate 137:3 aged 3:11 85:11 agencies 86:22 157:22 165:4 ages 58:3 175:15 196:20 aggressive 172:10 ago 26:1 69:3 193:11 agree 28:8 66:6 125:6 128:19 152:15 156:18 agreed 34:1 60:20 105:8,8 agreeing 55:22 agreement 98:15 102:17 115:3,10 agreements 105:21 agrees 141:9 ahead 1:5	aim 6:1 9:12 air 199:16 alarm 48:7 alarms 46:1 61:15 alert 45:25 aligned 157:13 allegation 75:20 95:9 106:23 107:4 107:17,19 108:4 110:3 130:12,23 139:4 147:11,15 allegations 33:8 71:5 73:2 75:18 98:13 106:11 107:7 109:19 110:10,13 130:19 135:2 alleged 77:17 138:7 162:21,24 163:8 163:20 allocated 136:10 allowed 42:12 51:14 113:7 allows 125:15 alongside 12:8 alternative 7:4 amount 13:23 59:14 193:3 anal 56:20 107:11 anally 54:19 analysed 164:4 analysis 162:17 163:10 anger 172:8 annex 32:23 36:1 annual 120:2 annually 154:3 answer 140:4 142:7 191:7 answering 128:8 154:9 answers 125:1 132:18 144:21 149:16 150:4,13 205:21	antisocial 172:17 173:4 anybody 25:16 95:7 anymore' 93:22 anyway 58:8 61:21 63:1 80:1 111:18 184:21 Apart 16:4 62:4 Apologies 72:3 169:8 APP00012 46:13 53:19 101:5 APP00012_007 48:14 APP00020 59:13 APP00028_001 41:9 APP00045 99:23 APP00045_002 37:21 APP00049 49:11 APP00057 64:12 APP00059_002 66:19 APP00064_013 22:3 APP00064_022 195:1 APP00064_030 55:11 Appeal 150:10 appear 128:17 135:20 137:15 139:16 141:3 145:18,21 152:12 188:13,14 appeared 78:11 139:1 appears 81:13 85:2 92:6 138:22 149:15 174:19 186:4,11 Appletree 1:8 2:15 2:16,17,22 3:8,9	4:24 5:12,13 6:4,5 6:8,16 7:16,21 8:3 8:7,12,21 9:3,11 9:14 10:5 13:8 16:11 17:5 21:11 21:22 22:6,11 26:11 28:1 29:5 32:19 34:10 36:6 39:15 42:20 46:11 50:9 59:19 63:16 68:10,15 69:13 71:1,5 75:12,15 81:5 84:7 85:4 90:1,14,19 93:11 94:7 96:23 99:6 100:16,17 105:3 108:15 110:15 114:12 117:25 129:18 194:24 Appletree's 60:12 applicable 125:3 150:6 applied 151:8 152:12 177:2 applies 173:25 apply 108:3 173:21 appoint 68:17 appointed 31:24 33:6 appointing 35:1 appointment 33:13 appreciate 34:13 34:22 151:11 appreciating 155:11 approach 110:3 143:19 155:22 168:4 approaching 155:7 appropriate 33:4 33:20 58:18 114:1 114:23,25 115:9 119:18 168:11 169:25 170:2,17 175:25 180:23	192:2 199:20 202:10,14,25 207:14 appropriately 40:18 132:17 209:22 appropriateness 182:21 April 38:20,22 103:15 apt 90:22 arbitrary 189:21 area 11:6 28:11 46:2 63:1 86:17 86:20,20,21 87:12 109:8,19 116:2 119:15 131:2 163:2,24 183:1 areas 65:7 68:14,15 161:7 arguably 94:4 189:12 arisen 202:19 arises 183:23 arm 15:1 arrangements 116:14 arrested 158:9,13 arrived 41:12,13 46:11 47:7 48:22 arriving 100:17 art 12:1 articulately 193:2 ascertain 19:6 ASD 186:8 aside 24:23 40:16 asked 36:8 80:20 93:19,25 94:23 132:18,23 138:15 140:9 144:21 145:6 162:7 asking 84:1 120:23 132:2 162:10 asleep 45:6 aspect 10:6 11:5
---	--	--	--	---

24:9	192:8	awake 5:10 45:4,7 45:10 46:1,3	192:25	188:20 189:9
aspects 10:4 27:11 41:6 173:10	attempted 194:20	aware 41:17,18,18 42:23 73:16 74:9 76:14,16 77:9 78:6 83:18 100:12 100:13 119:23 121:20 134:19,22 139:7	basis 17:23 60:4 116:23 123:5 159:2 174:10 194:13	191:3,11,14 192:10,21 194:8 194:18,25 195:4 196:24 197:5,19 198:4,21,22 199:2 199:6,13 201:8 202:10,25 205:8 207:1,20 208:3,4 208:7 209:2,9,11 209:20
assault 77:24 123:2	attended 123:17 136:7	awareness 64:25 207:19	bear 83:9	behavioural 3:6 161:15 188:6
assaulted 40:1 90:11 130:5	attending 123:5 138:13 175:14		beautiful 10:14	behaviours 7:6,7 37:6,7,17,22 38:4 38:24 40:10 60:10 90:20 95:23 99:2 99:7 162:3 164:5 164:25 165:1,2,6 166:12,16,19 167:7 168:6,9,11 168:15 169:18 170:6,9,14 171:14 173:1 174:9,14 177:18 178:1,9,16 178:18 179:4 181:7 182:22 186:15,18 187:19 192:14 194:5,13 196:10,15,24 197:13,15,22 198:9 199:8,10,21 200:21 201:18,18 201:22 202:12,12 202:18 203:2 209:17,19,22 210:6
assess 138:3 140:3 144:10,20 145:1,2 151:25	attention 130:8 136:23 141:11,12 141:21 163:19 176:16 177:5 192:19	B	becoming 15:18 90:25	beliefs 172:17
assessed 14:12 123:6 143:3 144:18 145:12	attitudes 172:18	B 32:23	bed 43:6 73:13	believe 2:11 9:25 11:10 22:17 40:25 56:13 77:15 89:21 96:14 99:8,12
assessing 128:13 149:6	audio-recorded 131:15	B/11 134:5	bedrooms 10:14 43:24 78:17	
assessment 14:14 41:8 42:18 44:8 44:11 48:11,13,17 49:19 60:10 93:1 125:3 127:20,23 128:3,11,21,24 130:13 132:25 137:17 138:12 139:15,19,22 140:11 142:8 143:3,9,20 144:1 144:12,15 146:15 148:14 150:5 202:11	audited 138:1	B/18 146:4	began 3:3 93:22 100:16	
assessments 152:4	August 121:13	baby 3:20 15:16 196:3,5	beginning 10:15 26:6 34:1 51:24 61:23 147:1	
assist 125:5 126:2 150:7	author 162:6	back 11:19 15:20 17:1 36:5 53:2,17 54:2 58:25 64:2 65:21 70:24 94:19 99:14 138:5 155:17 191:5 201:16 203:6 205:14 209:16	begins 139:11 147:1 149:7	
assistance 187:4	authorised 151:18	background 58:4 79:8 135:5 171:15	behave 171:21	
assistant 52:3	authorities 88:6 116:15	backgrounds 132:11 175:2 181:17 187:8	behaving 169:11	
assists 126:14	authority 24:22 25:24 33:15 69:11 70:8 80:24 87:12 88:4,18 97:19,22	bad 9:3 62:7 64:22	behaviour 4:25,25 9:3,6 19:4,6 38:11 39:1,3 40:8 41:15 42:19 43:13 44:16 44:20 46:4 47:23 54:16 56:19 66:5 66:8 68:11,13 72:20 81:15 89:25 90:4 91:21 93:11 94:4,4,5 98:1 100:3 110:16,18 110:25 161:8 162:6,8,11 164:2 164:7,12,18,21,24 165:3,8,11,13,14 165:19,22,25 166:9,11,18,23 167:15,18,25 168:5 169:7,15,25 171:11 173:23 174:3 176:11,22 177:8,20 178:4,21 180:13 181:16,21 186:22 187:7,9,11	
associated 93:8 172:16	autism 182:12,18 184:16,18	badly 112:4 180:24		
associations 191:2	Autistic 183:6 185:12,24	balanced 168:4		
assumed 142:24	automatically 134:18	Bank 8:7 68:13		
assuming 165:14 192:7	autumn 9:14 111:1	barely 200:1		
ATC 13:22 195:5	availability 119:3,6 188:8 204:4 205:22	barrier 179:5		
attachment 10:21 170:16 189:1 191:23 206:1	available 71:23 92:11 123:12 124:12 125:9 133:1 137:9 145:10 202:17	barriers 203:5,10		
attempt 166:2	avenue 204:25 205:2	based 99:19 124:2 134:12 140:13 143:10		
	averse 201:21	basic 49:7 138:15 207:19		
	aversive 202:6	basically 58:21		
	avoid 16:22 138:16			

108:23 118:8 145:10 153:7 181:1 believed 72:18 bells 48:7 benefit 8:2 12:22 84:5 benefits 209:23 bent 43:9 best 2:7 20:10 23:4 23:15 41:19 80:9 83:24,25 101:12 121:16 124:3 125:10 127:11,14 127:18,22 128:17 134:13 139:25 145:9 154:17 155:14,22 189:8 209:19 better 7:1,5 50:18 59:23 62:23 106:1 118:16 154:19,20 154:20 155:12,13 155:25 156:2 208:21 209:11 beyond 95:6 BFC000032_002 109:9 BFC000033 93:12 BFC000038 116:4 BFC000043_007 77:12 BFC000043_033 51:10 BFC000050_005 90:12 BFC000071 146:4 BFC000073_001 107:7 BFC000073_006 73:22 BFC000075 116:16 BFC000084 92:13 BFC000084_002 38:23	BFC000085 104:17 BFC000087 86:18 Bicarregui 1:3,6,10 1:11 54:22 55:3,7 70:11 82:21 83:2 83:6,7 118:21 120:11 211:1,5 big 3:12 53:9 142:21 175:16 bigger 119:5 biggest 40:23 86:24 118:12 biological 169:16 birthdays 121:25 bit 5:12 8:10 25:22 32:21 33:10 43:2 44:2 46:8,18 48:19 52:13 70:17 106:8,17 116:13 164:1 168:17 175:20 177:10 178:1 181:1 182:23 190:10 191:4 193:5 194:3 198:7 200:19 201:13,23 bite 191:6 bits 116:20 blow 203:22 board 21:25 28:6 boarding 175:14 bodily 194:20 body 22:9,10 30:3 30:25 33:2 bottom 31:11 32:24 37:23 43:17 48:18 49:4 57:20 60:8 65:7 73:22 107:8 129:24 139:12 150:9 183:18 195:2 boundaries 200:2 boundary 172:19 box 138:24 139:11 139:12,13,15,18	140:10 146:25 boxes 140:8 boy 37:14 40:1,20 107:19 132:16,20 147:15 boys 51:5 52:19 131:13,14 132:10 175:16 brackets 140:25 Bradford 70:8 76:20,22 84:3,12 84:14 85:11 86:8 87:22 88:20 91:7 92:21,25 93:3 94:21 109:22 111:7 133:14,16 135:3 breach 70:11 break 1:18 9:9 54:25 55:5 82:6 120:12 121:3 160:20,21 175:25 176:6 179:1 188:22 breakdowns 195:20 breaking 172:18 briefly 3:25 12:20 20:4 69:6 80:19 108:12 128:22 132:9 146:23 195:9 205:5 206:16 bright 11:15 bring 13:17 83:12 111:22 bringing 69:8 208:8 broad 123:22 124:11 178:2 broader 163:1 180:13 broken 189:15 brought 125:19 bruise 16:18	build 10:22 88:15 building 10:20 45:8 65:9 80:3 109:2 119:10 bullet 32:23 38:25 39:5 bulletpoint 39:2 bum 43:7,10 bundle 2:1,2 49:12 71:17 83:10,21 121:4,10,10 134:6 159:23 160:5,6 burn 16:18 bushes 67:5 button 154:5 158:6 bystander 206:13 206:17 <hr/> C <hr/> C 159:23 C1 2:15 8:19 46:21 54:17 58:1 78:21 123:3,4,6,10,17 129:17 130:4,7,13 130:16,20,21 131:1,1,6,9,15 132:1,4 133:2 134:19 135:3,16 136:16,19,25 138:7,22 140:20 141:9 145:20,20 145:24 146:7,15 147:21 148:1,14 158:3 171:13,16 188:16 C1's 120:6 128:22 129:21 130:14 131:23 134:22 135:21 137:8 147:20,24 148:18 158:22 C2 2:11,15 12:21 15:14 16:19 43:6 46:19,22 48:8 54:18	C3 171:13 C4 54:16 C5 43:6 call 37:20 67:20 76:10 87:8 94:15 95:14 112:22 120:17 153:24 157:24 158:7 190:7 called 80:19 84:21 105:20 137:24 149:11 151:5 158:9 172:2 173:14 194:2 calls 154:25 CALM 17:8 20:17 CAMHS 86:23 91:12 99:9 116:13 Campbell 52:16 candidates 31:12 capable 149:8 capacity 88:16 capturing 159:12 Carbery 133:19,23 134:18,25 136:23 137:7 139:6 152:3 care 7:12 8:16 36:20 37:23 38:1 38:8,15 39:6,19 40:8 78:11 84:3 84:10,21,23 85:10 85:12,14,16 88:16 88:19 89:15,15 91:15,16,20,23 92:17,19 93:3,21 94:5 96:8,13,23 96:25 101:3 110:11 118:5 122:22 155:13 188:20 189:11,17 193:6,12,14,18,23 198:4,23 201:5,15 201:19 cared 91:7 careful 29:6 121:23
---	--	--	---	---

167:17 carefully 88:22 178:15 carer 45:19 123:17 129:17,20 136:2,3 136:7,9 140:20 141:9 156:17 carers 91:24 179:15 184:5,12 189:25 202:21 carpet 16:18 carried 125:15 142:9,9 148:3 200:8 carry 155:21 carrying 124:9 cars 9:9 case 9:2 20:17 21:10 22:4 39:2 45:4 50:16 75:19 77:4 78:21 85:21 87:19 94:13 95:2 98:6,24 103:24 105:9 108:16 113:2 115:4,21 119:8 123:10 128:22 131:16,20 132:14 133:25 135:11 144:10 146:14,18,21 147:12,19 150:10 151:24 152:12,18 152:20,24,24 153:1,11,20 155:4 158:5,21,25 159:7 159:8,9 167:19 177:3 180:15 181:10 184:14,14 cases 5:4 78:22 79:5 151:24 152:8 153:5 154:3,14 163:3,25 164:4,9 167:9,22 173:17 176:23 177:12 184:3 193:10,12	193:17,23 cast 147:10,14 categorical 178:13 cause 38:13 48:7 100:5 167:9 169:14 caused 13:25 204:9 causes 9:10 169:13 caution 69:19 113:14 130:22 131:15 132:17 177:2 187:14 CCC000007_059 97:2 CCC000007_089 57:20 CCC000016_004 13:10 20:12 cent 6:6 163:18 164:10 176:19,24 181:13 194:9,19 central 122:4,10,12 Centre 1:8 10:5 69:13 certain 9:25 45:3 52:23 74:15 76:8 76:8 168:15 182:22,22 184:23 204:16 certainly 17:21 45:19 56:22 57:22 61:5 62:18 92:4 92:18 95:25 97:25 98:18 99:21 100:10,23 105:10 111:19 112:2 142:18 144:9 152:12 153:3,22 163:15 167:6 174:16 184:2,22 188:2 cetera 202:4 204:19 210:3 chair 1:3,6 2:2 10:9 54:23 55:1 71:21	82:23,24 83:2,20 118:21,23 119:2 119:17,23,25 120:6,9,11,13,17 121:10 156:6,8 159:17,21 161:24 162:16 175:24 176:1 210:8,10,14 chaired 102:20 chairperson 161:20 challenge 135:7 169:10 205:19 challenged 174:17 challenges 186:13 challenging 9:5 197:22 210:2 change 4:9 47:16 174:23 175:21,21 changed 5:9 6:12 39:21,22,23 45:1 70:21 195:5 changes 67:9,23 chaotic 36:15 characterisation 178:11 characteristic 179:3 charged 149:18 charging 131:18,25 132:7,10 159:10 159:15 charities 208:14 chats 185:25 check 23:4 25:18 51:9 53:3 60:1 106:14 153:7 checked 138:20 checking 18:13 87:17 checklist 135:23 checks 43:8 child 7:13 14:25,25 15:7,21,22 16:10 16:22 17:19 18:3 19:9,10,25 29:12	44:13 45:24 54:11 61:20 62:1 64:17 65:20 67:17 77:25 80:5,7,9 83:15 85:24 86:16 87:3 87:7,11,13,23 88:25 89:6,10 90:13 91:1,19,19 91:22 92:3 94:15 95:6,7,23,24 96:10 98:16,19 99:3,11 100:19 101:14,18 102:7 102:23 103:20 105:1,16 106:4 108:22 109:17 110:4 117:25 121:19,21 122:22 123:3,20 126:2,6 126:6 127:7,22,23 127:24 128:5 130:3,6 133:14,15 137:16,23 140:13 143:24 145:12,15 151:8 152:2,5 153:25 154:10,17 155:8,10,15,17,21 156:1 159:14 161:4 163:2 165:8 191:10 208:2 child's 17:13 29:18 29:19 79:1 83:17 128:8,11 135:5 140:4 144:17 197:19 203:14 childhood 156:1 165:12,19 169:17 169:21 171:3 172:14 192:3 childhoods 172:20 children 1:20,23 3:3,5,11,13,14,16 3:23 4:12 5:13,14 5:14,18,20,20 6:1 6:4,6,8,14,15,18	6:22,24 7:2,5,6,8 7:12,14,16,19,21 7:22,23,25 8:10 8:11,14,17,19,20 8:24,25 9:7,25 10:13,21 11:6,10 11:14,17,18,23 12:1,3,14,15,17 12:22 15:19 17:25 18:9 19:1,15 21:12 24:7 31:13 32:16,22 41:16,20 42:6,12,20,23 44:19,25 45:4,8 46:2,5,6,10,10,24 47:25 49:3,24,24 50:3 51:15 52:22 52:24 55:24 56:11 57:14 58:3,22 59:18 61:1,21 62:13,24 63:4,8 63:15,22 65:14 66:3 67:13,21 71:4 72:15,20 75:2,7,11 78:22 79:10 80:7,13,15 81:14 84:23 85:8 85:9,10,12,16,25 86:19,25 87:5,17 87:21 88:3,8,10 88:14,16 90:5,6 90:21 91:8,25 94:24,25 96:8,13 96:15,18 97:6,8 98:3,4,11 100:21 100:24,25 101:1,2 101:23 102:1 104:2 105:3 108:3 111:6,9 113:24 114:6 116:14 117:18 118:12,17 118:18 119:10,14 119:19,22 122:18 124:14 125:22 144:12 145:9
--	---	--	---	--

151:5 154:16 155:1,11,13,14 156:2 161:8,11,14 162:9,11,20 163:7 163:20 164:22 165:1,5,24 167:22 168:14 169:11,13 170:1,13,24 171:9 171:19,25 172:6 172:10,19 173:18 173:22,23 174:1,2 174:3 175:13 176:12 177:13,16 178:4,12,14 179:3 179:7,18,20,24 180:1 181:2,6,11 181:12 182:5,12 182:17 184:10 187:6,16,16 188:3 188:15,19 190:23 191:21 192:21 193:12,25 194:9 195:1,17 196:2,13 196:20,22 197:3,8 197:10,17,21 198:9,13,15,19 199:11,25 200:2,5 200:21,22 201:24 203:10,18,25 204:19,20,21 205:18 206:4,9,14 206:18 207:22 208:17,24 209:7,8 209:10,20,21 children's 3:23 8:5 10:5,11 11:3 18:7 18:18 22:18 24:19 25:4 29:16 35:9 35:19 36:25 41:2 43:14,24 52:5,7,9 52:11 53:15 57:10 65:17 68:8,13,23 69:4 75:17 81:14 89:23 90:2,6 91:7 91:9 93:2 94:16	99:18 100:7,11 101:3 111:14 117:23 119:11,13 120:4 146:5 158:24 167:18 168:4 169:18,20 170:5,8 175:2 198:14,21 199:23 201:8 203:11 204:19 205:23 Christine 68:22 82:11 88:1 182:24 200:7,25 chronology 50:24 84:16 106:18 112:14 circumstance 155:20 circumstances 15:12 20:7 175:22 198:24 cites 197:4 Clair 1:7,9 194:23 196:7 210:24 clarify 123:9 132:8 132:12 147:3 186:21 clarity 200:1 class 52:3 classed 3:5 classify 15:3 classrooms 11:5,13 clear 50:2,2 53:2 61:4 65:8 68:21 74:17,19,23 75:13 77:4 79:3 80:15 81:18 89:14 90:21 92:16 95:21,22 99:19 104:22 105:18 107:6,24 108:16 109:6,20 109:25 111:23 114:23 115:21,24 116:9 132:24 136:12 144:22,23	152:11 166:22 clearer 98:18 clearly 10:18 11:23 12:23 43:13 45:21 54:12 98:22 186:24 clinical 10:7 12:10 12:15 23:22,24 25:9 41:23 161:16 161:19 167:20 clinician 161:14,18 clinicians 162:2 close 157:23 171:8 closed 49:6 145:25 closely 40:19 172:15 clubs 11:17 clues 187:25 188:1 clustered 102:11 co-operation 135:8 157:23 co-ordinated 102:14 Code 148:25 149:3 cognitive 128:9 coherent 125:1 132:4,5,18 150:4 cohort 6:18 colleagues 163:15 combination 180:23 come 1:15 3:15 7:14,22 10:17 11:3 22:19 25:17 29:7 30:6 31:13 32:12 41:6 45:25 63:7 64:2 70:23 72:8 74:2 110:6 121:8 134:4 137:6 166:4 169:23 176:16 177:5 195:21 203:9,20 209:16 comes 48:4 56:2 100:19 127:14	191:5 coming 1:11 61:15 107:13 120:22 160:4 162:23 163:19 195:17 210:12 commensurate 168:6 comment 107:2 121:7 140:7,10 144:6 147:16 152:14 155:6 commentary 107:14 commented 15:10 comments 108:2 commission 101:25 163:8 commissioned 66:21 105:23 155:22 commissioning 105:17,22 commit 8:25 169:6 177:25 committed 162:24 202:8 common 150:16 164:6 170:7 186:5 194:17 203:12 commonly 77:3 commonplace 194:8 communication 12:9 137:2,4 141:21 145:13 communities 179:12 community 96:16 177:17 company 33:21 compared 49:7 compassion 155:14 compatible 133:11 competence 123:6	124:6,22 126:15 126:21 128:14,18 128:21 135:21 141:4,13 143:6,13 143:20,22 144:20 145:1,4 149:6,20 150:11,14 151:2,6 152:1,5 156:12,13 competency 125:3 128:11 137:18 143:22 144:4,7,15 150:5,21,23 151:7 152:22 154:12,15 191:24 competent 125:2 126:23,25 132:20 139:20,23 141:10 141:16,24 142:6 145:20,24 146:16 149:8,10,14,22 150:5 151:14 153:6,21,25 154:11 complainant 146:18,21 complainants 123:20 complained 78:10 78:12 complaint 64:15 123:1,2 129:1 130:5,6 complete 144:1 160:9 201:7 202:5 completed 139:16 140:8 completely 92:5,19 113:23 195:10 completing 140:5 completion 188:10 complex 113:24 118:17 119:19 122:21 124:9 169:15 170:6 197:22 207:21
--	---	---	---	---

<p>208:25 209:6,14 complexity 173:18 197:12 compliance 122:12 compliant 25:18 complicated 183:21 186:1 compound 183:15 189:5 comprehensible 150:17 comprehensive 49:8 compulsory 208:13 computer 88:9 157:7 158:10,12 computerised 104:1 concept 185:13 concern 13:24 38:13 39:11,18 41:22 52:22 53:1 53:25 64:9 80:23 100:5,6 200:19 concerned 3:10 13:7 34:12 38:3 41:21 74:4 75:6 78:9 104:23 151:7 165:25 concerning 81:12 139:4 concerns 19:19 20:7 36:23 52:17 59:18 63:12 64:15 66:10 70:25 71:4 75:9 81:23 89:24 96:13 97:7 99:10 99:12,12,17,19 100:12,25 102:19 111:5 112:19 126:25 146:8 206:22 208:15 concerted 208:21 concluding 151:13 conducive 88:18</p>	<p>108:25 conduct 135:1 142:10 172:21,21 172:23 173:3 185:4 conducting 127:8 135:1 153:2 conference 147:20 confident 27:13,15 27:16,16 31:18 45:22 98:3,5 99:4 110:2,5 157:17 confidentiality 70:12 confirm 2:4 83:22 147:7 148:21 160:7 confirmation 33:14 confirmed 147:9 confirming 87:21 109:11 conflated 156:12 conflict 183:23 confused 139:1 150:21 confusion 74:25 116:5,9,12 confusions 98:9 connection 28:10 Connor 183:17 184:21 Connor's 184:2,22 consensual 166:7 consent 128:12,14 consequence 181:7 consequences 203:14 consider 4:8 35:1 36:8 149:19 considerable 171:23 Consideration 33:19 considered 92:25 115:1 132:20</p>	<p>139:19 141:22 151:16 155:19 166:10 considering 4:14 4:15 53:13 79:13 82:18 considers 33:16 consistent 12:5 Constable 152:3 constabulary 133:3 134:8 142:21 162:19 163:11,12 Constant 42:3 constantly 199:16 consult 30:6 consultation 12:10 12:18 25:9 136:2 consulted 135:20 contact 53:5 90:23 90:24 148:1 157:16 contacted 77:25 92:9 contacting 33:15 containing 129:21 contains 4:11 contaminating 58:5 content 209:3 context 43:2 44:2 49:23 86:7 117:12 162:9 164:10 166:16 167:6 168:12 169:21,22 174:21 185:8 188:8 190:6,21 194:7 197:20 202:12,17 204:5 204:12,24 206:2 210:5 contexts 177:15 182:22 193:4 204:17 206:15 continue 151:25 continued 13:24</p>	<p>continuum 165:11 165:14,16,17,18 166:2,20,22 167:6 167:11,16 168:16 168:17,21 196:23 201:17,17,18 202:7 209:17,18 209:21 contribute 31:1 191:18,21 199:10 control 100:23,23 conversation 40:4 40:9,13 52:13 53:5 55:23 56:2 61:2 77:11 93:13 108:15 109:11 conversations 9:20 53:22 Conversely 168:13 convicted 148:10 conviction 77:23 convictions 75:14 148:4 157:8 coordinator 80:10 cop 173:16 coping 15:17 16:23 copy 31:12 core 2:2 83:21 121:10 137:22 159:23 170:8,11 203:5 correct 3:2,24 4:21 38:5 67:1 122:6 122:20 123:18 124:16 126:9 127:13 131:7 132:15 146:2,17 161:6 194:21 cost 119:4 council 14:1 84:3,6 84:12 89:15 91:4 109:10 111:7 112:9 Council's 40:3 count 16:15 93:23</p>	<p>counterparts 157:16 180:17 county 40:3 109:10 131:3 couple 26:7 course 131:12 139:6 143:23,25 168:8 174:20 175:12 178:10 179:7 204:23 207:19 courses 207:18 court 58:7 141:23 149:15 150:10 courts 126:23 cover 27:24 covered 106:22 107:12 140:18 143:22 covers 70:13 144:3 144:4,7 CPS 58:6 127:1 132:7 146:20 148:24 151:11 152:8,10 153:8 154:12 159:3 CPS004849_037 127:19 CPS004851_002 124:20 created 129:2 200:1 creative 12:6 credibility 150:20 150:21 151:1 crime 125:18 129:2 132:21 153:23 162:25 163:5,9 crimes 162:19 criminal 123:21,25 124:3,14,24 127:22 132:23 139:9 143:14 149:14,25 151:15 162:23</p>
--	---	---	--	--

criminals 155:19	202:3 204:24	deal 65:14 69:7	185:17	85:5 88:24 94:3
criteria 152:12,13	cuts 184:23 205:1	79:19 114:10	deficits 169:2	166:2
critical 178:9	cycle 187:3	129:13 146:23	170:15	described 8:20 10:4
205:25		172:8 183:17	defined 167:23	24:12 33:11 36:15
cross-examination	D	186:2 188:5 190:1	definitely 44:18	37:5 55:24 56:18
125:15	D 210:22	202:23 205:8,10	82:17 95:2 103:8	56:23 61:23 68:22
Crown 57:24	dad 40:24 41:3	206:22 207:2	111:21 147:10	76:3,8 82:12 89:7
124:18 127:1	138:19	dealing 76:23 173:6	160:16	103:22 107:10,11
131:17 132:12	dad's 107:12	173:11 180:1	definition 115:13	114:20 170:19
148:25 149:3	damaged 58:4	183:22 197:19	156:13 164:15,17	describes 13:10
151:18,23 152:16	132:11	202:24 207:21	definitions 167:4	37:21 43:6 45:17
crying 73:14	damaging 190:23	208:17	definitively 28:5	describing 12:23
cues 182:20 183:9	Dame 68:22 82:11	dealings 23:2	degree 4:2 101:14	descriptive 135:24
183:11	88:1 182:24 200:7	dealt 33:17 71:6,6	135:8 179:10	135:24 136:1
culpable 190:14	dance 11:17	77:1,20 109:22	delay 57:8 109:24	deserve 11:12
cultural 154:24	danger 67:19 99:7	death 66:4	109:25	designated 25:10
169:21	data 153:4,8 154:2	debate 65:16,19	deliberately 54:1	26:25 32:19 33:6
culture 198:2,12,23	163:23 193:21	116:2	deliver 32:12 59:25	33:16 35:4,7
199:15,18 206:7,8	database 129:3	decades 171:24	delivered 80:6	80:25
206:24	133:6	December 74:10,11	delivering 209:3	despite 42:18
cultures 198:7,19	date 21:1 48:23	91:12 103:14	delivers 17:9	detail 40:2 45:11
199:4,9,24	51:18 53:3,5	111:21 115:16	demographics	55:12 60:21 64:22
Cumbria 13:7,9	193:8	decide 127:21	174:16	72:16 89:8 106:17
20:12,16 40:3	dated 38:19 48:17	149:22	demonstrate	121:8,24 129:14
76:19,22 97:3,13	121:13,14 200:24	decided 51:25 54:9	186:22	140:9 144:7
109:10 130:22,25	dates 121:25	130:7 147:2	demonstrated 39:3	153:24 168:24
131:2,10,17 135:3	129:15	150:23	161:14 164:6	205:3
146:5 157:18	Davies 1:7,9,11	deciding 150:24	196:10	detailed 4:11 39:24
Cumbria's 109:21	2:10 4:4 12:19	decision 36:6 38:19	demonstrating	71:8 73:25 76:4
cumulative 190:19	34:11 35:13 41:9	38:21 78:8 123:4	168:20	95:17 106:23
cumulatively	46:14 55:7 73:6	131:18 132:10	demonstration	114:11
190:23	82:22,25 89:9	141:15 143:10	198:8	details 62:17 75:9
curiosity 38:12	97:24 99:5 194:23	145:23,24 146:6	denial 183:25	115:7 129:15
100:4	196:7 210:24	146:15 151:17	denied 180:10,16	135:16 155:4
current 68:8 90:20	day 1:4 43:12 53:21	152:1 153:6,20	department 59:9	detective 120:18
127:4,25 193:20	55:16 56:10	156:16 159:10,15	63:23 99:15	122:3,9 156:5
currently 7:19	101:20 112:23	decisions 152:4,7,9	109:18	deteriorating
155:7 161:3	207:22,22	159:3,4 210:4	depending 98:13	111:25
174:10 207:13	day-long 207:19	decisively 65:10	155:19	deterioration
curriculum 80:16	days 14:10,11	decline 21:4	depends 151:6	110:25
Curtis 83:3,5,9	87:23 103:23,24	decrease 16:25	deputy 100:12	determination
90:16 188:17	109:7 159:9 186:3	dedicated 116:23	161:3	143:6,12 154:12
211:3	DC 129:25 130:3	117:4	describe 7:17 8:9	determine 137:17
cut 70:11,16 122:2	130:14,25 132:2	deemed 79:7	10:5,6 13:15 22:5	145:3 150:14
189:20 200:4	de-escalation 14:11	deficit 170:12	33:23 71:13 72:4	153:11

<p>determining 128:18 143:13 149:20</p> <p>devastating 79:1</p> <p>develop 171:2</p> <p>developed 134:12 162:1 165:18 175:6</p> <p>developing 37:5</p> <p>development 117:24 128:9 140:17 169:17 174:13 175:4,8 179:20 180:4,25 186:4 202:1 207:5</p> <p>developmental 168:19 175:21 189:19 198:17</p> <p>developmentally 165:6 166:3,6,15 166:20 196:2,25 197:1,2,6,7 202:10</p> <p>devolved 2:25 34:2</p> <p>DFE001862_089 32:21</p> <p>diagnosed 184:16</p> <p>diagnosis 184:19</p> <p>difference 44:6 114:2 148:12 184:18,19 188:15 196:18</p> <p>differences 187:23</p> <p>different 5:9 15:17 45:7 46:19,25 47:18 110:2 116:13,14 118:17 133:8 144:2 145:23 157:14 163:15 164:19,20 164:21 165:21 170:4 173:18 182:1 190:20 191:17 192:5 197:17 201:19</p>	<p>203:10 208:1,8</p> <p>differently 50:6 62:23 98:6 118:11</p> <p>difficult 13:4 43:17 46:18 59:21 62:2 62:25 63:7 67:20 70:6 79:19 92:2 113:16 132:19 163:10,14 172:7,8 172:13 182:19 183:12,13 191:8 192:1 195:22 197:14,16 199:11 199:25 202:18 207:16</p> <p>difficulties 3:6 87:2 88:25 117:7 141:11,12 145:13 166:5 175:1 183:16 185:2 188:18</p> <p>difficulty 67:18 156:11 183:8 198:21</p> <p>dimension 39:4</p> <p>direct 191:12,15 192:4 198:14</p> <p>directed 167:2 175:3</p> <p>direction 65:8 201:23</p> <p>disabilities 88:5 162:12 176:13 177:22,24 178:5,5 179:8,8 180:2,8 180:10,16 181:3,6 181:15 182:17 184:6 185:15 186:14 208:17</p> <p>disabilities' 185:1</p> <p>disability 155:1 176:18,25 177:1 177:21 181:8 182:19 183:7,14 184:9 185:8</p>	<p>186:19,20 207:24 208:5,5</p> <p>disabled 178:13,16 181:10,20 182:5</p> <p>disadvantage 182:2</p> <p>discharge 33:7</p> <p>disciplined 75:14</p> <p>disclosable 159:4</p> <p>disclose 78:22 203:19,25 204:13 204:22</p> <p>disclosed 45:15,19 58:23</p> <p>disclosure 42:15 54:17 56:17 63:20 75:21 76:3 93:16 106:8,19 129:17 129:21 159:1 203:5,8,11,17 204:5,25 205:2</p> <p>disclosures 73:1 77:17 110:19</p> <p>disco 179:24 180:1</p> <p>discomfort 183:22</p> <p>disconnect 149:5 151:22</p> <p>discovering 157:4</p> <p>discrepancies 58:2</p> <p>discuss 77:25 166:5</p> <p>discussed 49:21 56:15 60:2,5 77:20 99:23 121:21 127:1 151:17 200:1</p> <p>discussing 29:11 101:18 138:16 158:16 163:14</p> <p>discussion 38:23 39:9 57:23 77:16 98:7,14 100:1 102:8,16,22 108:7 108:9,11 110:6,8 110:8 111:23 115:24 136:13 137:11,19,25</p>	<p>138:6,9 140:13 192:13,20 199:17</p> <p>discussions 23:21 98:12 133:13 135:12 137:14,19 203:20</p> <p>dismissed 13:21</p> <p>dismissing 14:2</p> <p>disorder 172:22 185:13,24</p> <p>disorders 173:3 182:18 183:7</p> <p>display 139:22 187:18</p> <p>displayed 37:22 209:9,10</p> <p>displaying 7:5,7 91:20 171:14</p> <p>disquiet 59:14</p> <p>disruptive 89:10</p> <p>disseminating 208:10</p> <p>distance 66:10 86:8 86:11 89:3 101:21 101:22</p> <p>distinction 178:13</p> <p>distinguish 165:21</p> <p>distorted 170:20 171:19</p> <p>distress 87:8</p> <p>distressing 113:22 154:18</p> <p>District 151:18</p> <p>diverse 178:17</p> <p>divider 141:18</p> <p>Doctrine 124:3</p> <p>document 38:18,21 43:16 51:9 69:8 71:14 73:19 99:21 105:11 121:7 134:8,15 135:23 135:25 136:13 152:17</p> <p>documentation 74:6 131:8,16</p>	<p>136:16</p> <p>documents 1:14 74:23 75:1 84:17 86:2 120:25 121:6 123:12 160:23</p> <p>doing 9:11 18:5,12 34:20 52:3 98:23 108:21 195:3 200:16 205:17 206:2</p> <p>domain 28:3</p> <p>domestic 89:13 181:25 190:21</p> <p>doors 103:1</p> <p>doubt 147:10,14</p> <p>downplayed 40:10</p> <p>drama 12:1</p> <p>dramatic 21:3</p> <p>dramatically 67:11</p> <p>draw 66:16</p> <p>drawing 42:14,15 42:17</p> <p>drawings 97:5</p> <p>drawn 136:23</p> <p>drive 86:12,13</p> <p>drop 87:11</p> <p>DS 146:8,14 147:2</p> <p>DSL 33:11,14,16 33:20 35:2,5,21</p> <p>DSLs 35:20</p> <p>due 130:8 131:12 141:10</p> <p>Durham 161:4</p> <p>duties 26:22 27:1 33:14</p> <p>duty 160:12</p> <p>dynamic 34:22</p> <p>dynamics 203:14</p> <p>dysregulation 172:4,13</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E 2:2 83:21 121:10 210:22</p> <p>earlier 12:12 29:11</p>
---	---	---	--	--

50:8 81:18 89:9 99:5 108:11,12 121:21 134:16 169:20 170:16 172:20,23 188:16 207:6 early 3:17 11:4,6,9 36:15 89:11,13 109:20 120:11 126:21 127:2 easily 154:8 easy 205:21 ed 101:9 edges 87:13 educate 7:5 51:25 52:1 54:10 209:1 educated 8:17 53:10,14,25 209:11 educating 168:14 education 2:20 6:2 11:3 27:8,10 31:13 32:17,22 63:23 79:16,25 86:22 93:4,6,8 99:10 111:12 118:5 180:11,14 180:17,22 183:23 184:11 188:10 208:12,22 educational 4:3 23:9 24:16,17 25:6 27:6 88:4 136:25 137:9 145:14 162:12 effect 37:6 75:3 78:13,18 110:16 150:15 156:20 185:7 effective 206:15 effectively 2:21 119:24 145:25 146:12 205:10 effects 171:24 effort 96:11 168:13	208:21 eight 7:25 either 1:14 6:24 61:18 131:25 137:23 177:15 204:22 207:7 elaborates 150:9 elderly 2:24 26:7 33:24 element 88:21 elements 144:4 embed 142:18 embedded 59:24 emergency 20:5 63:23 67:8 68:6 113:5 114:20,22 emerges 174:18 eminent 22:22 emotional 3:5 128:9 172:3,12 182:9 191:10,21 203:15 emphasise 205:22 emphatic 73:1 employ 34:17 35:22 employer 200:13 empty 139:15 en 90:25 enable 124:13 125:9 enabling 123:20,23 encountered 154:24 encourage 165:19 endeavour 188:12 ends 153:20 201:20 energy 119:9 engage 42:8 173:1 176:10 178:5 191:11 engaged 42:10 181:21 English 190:15 enquiries 146:12 146:23 148:3	enshrined 34:14 ensure 14:14 26:25 33:4 58:19 133:15 151:16 ensures 122:12 ensuring 89:5 119:10 entirely 133:25 149:25 167:21 entries 46:20 entry 51:8 environment 79:19 117:2 194:8 196:11 environmental 169:22 188:13 environments 169:23 209:12 envisage 128:18 equips 207:20 escort 65:21 especially 41:16 182:17 essence 167:22 170:9 essentially 29:7 49:16 54:18 66:10 69:21 72:7 98:2 114:14 establish 138:15 170:17 established 106:10 establishing 141:4 156:11 establishments 193:5 et 202:4 204:19 210:3 evening 56:6 event 62:3 63:14 events 20:14 54:6 eventually 74:11 everybody 1:4 12:20 34:23 84:6 200:14	evidence 1:7,20 2:11 15:4,8 32:2 47:17,22 58:6,7 58:11 60:17 62:9 79:10 81:18 83:16 88:1 92:8 94:9,12 95:8 123:4 124:3 124:14,23,24 125:2,5,10,11,12 125:16,19 126:2,7 127:12,14,18 128:17 134:14 136:22 139:20 141:1,25,25 143:11 145:9 148:16 149:8,11 149:14,25 150:25 151:2,5,15 154:1 154:17 156:19 159:22 160:4,13 167:14 176:4 180:12 181:6 188:17 189:24,24 193:20 198:18 204:20 205:23 208:11 210:14 evidence-based 119:15 evidence-in-chief 125:12 evidential 145:4 EWM000469_004 162:17 EWM000469_010 164:14 exactly 17:20 26:19 34:8 85:1 93:9 180:6 examination 1:10 83:6 120:21 128:12 160:2 211:1,5,11,17 examined 128:15 158:25 example 3:19 10:11	19:10 23:8 43:15 49:10 52:9 64:23 66:7 150:8 155:14 166:18 171:12 172:25 185:23 186:10 189:23 190:4 200:12 206:13 examples 114:5 166:10 167:22 172:25 185:20 202:5 exception 149:17 149:24 exceptions 149:9 149:13 exclude 8:10,17,21 8:24 excluded 7:9 37:13 90:10 91:11 93:5 99:11 exclusion 9:3 39:25 90:7 exclusively 196:13 exercise 26:15 104:6 187:13 exist 31:8 166:1 existing 193:21 exists 168:18 exits 65:9 expect 76:18 105:14 109:7 160:17 175:7 expectation 101:20 expectations 105:19 expected 157:15 166:3,6 196:8,25 197:1 expenses 27:24 experience 3:17 11:20 69:25 75:2 75:6 76:25 85:15 91:25 117:16 144:15 161:13,17
--	---	---	--	--

171:3,4,9 174:5 177:12 179:9 181:9,16 182:3 183:13 184:24 185:1 187:12,17 187:24 190:17,18 191:9,13 201:4,14 207:5 209:24 experienced 38:10 100:2,18 158:18 170:25 181:24 188:19 194:9 195:16 experiences 47:2 156:2 169:20,21 170:16 176:12 179:17 182:1 188:5 191:23 195:18 197:11 209:5 experimentation' 201:12 expert 23:9 24:19 25:4 30:7 72:19 160:7 208:1 expertise 208:1 experts 22:17 61:20 183:6 expired 161:23 explain 60:16 63:12 71:16 79:23 164:13 165:16 172:5 184:1 206:16 explained 128:24 181:7 202:9 explaining 191:1 explains 130:18 explanation 100:15 103:16 128:6 139:3 156:11 explicit 76:4 97:5 99:7,10,12 106:25 107:4,17 185:5 explicitly 34:23	exploitation 186:17 exploited 72:25 exploration 184:24 explore 162:13 explored 99:5 128:4 Exposing 195:9 exposure 189:8 191:16 express 25:10,13 39:17 48:8 184:8 186:9 expressed 64:15 199:11 202:13 expressing 165:8 168:7 expression 167:13 169:25 173:3 198:3 199:5,9 expressions 165:24 167:24 180:3 extend 173:10 extensive 144:3 202:16 208:18 209:18 extent 4:15 44:12 49:1 113:2 198:12 198:13 210:5 external 30:3 32:7 32:9,12 33:20 200:5 externally 87:1 98:11 extra 91:24 102:25 120:7,8 extract 145:9 154:5 155:17 extracted 154:7 extrapolate 163:12 extremely 15:14 21:9 92:1 115:6 153:12 <hr/> F <hr/> face 145:18	face-to-face 136:13 140:12 facilitators 203:11 203:17,24 facility 142:23 fact 4:7 22:5 29:11 32:22 38:24 39:14 40:6 41:1 60:4 62:14 93:4 96:24 97:21 100:24 101:23 108:13 130:21 131:1,5 137:11 140:8 141:13 147:19 148:8,10,21 149:18 152:18 160:6 166:1,5 174:9 178:20 180:8,21 182:14 188:25 208:16 factor 179:2 188:24 189:3 factors 110:17 128:4 173:18 175:18 183:20 188:13 198:2 205:20 facts 138:15 160:7 failure 201:9 fair 5:13 23:7 42:10 44:15 65:25 71:8 82:15 90:15 fairly 99:9,11 105:19 120:3 157:17 180:12 faking 43:7 fall 187:23 familial 189:14 familiar 31:16,18 111:2 family 18:3 33:9 36:25 92:16 93:2 121:24 164:7 fancy 190:16 far 15:5 21:10 58:9	66:1 76:14,15 94:24 119:9 137:20 146:20 151:7 154:20 159:11 194:17 209:17 father 36:18 73:3 75:22 77:18,23 78:12 95:10 106:9 107:9,10,20 110:13 139:5 147:6,7,24 148:1 148:2,4,19 fault 10:18,19 62:7 faxed 109:12 fear 40:23 51:14 203:13 fearing 147:25 feature 66:9 184:25 193:7 features 67:2 178:20 182:11 183:25 feed 70:11,16 122:2 180:18 feel 8:14,25 10:13 10:15,17,21 11:11 11:11 34:13 39:7 62:7,10 67:16 73:14 77:18 80:9 88:20 99:16 108:6 110:5 120:24 160:18 feeling 30:24 40:14 50:18 88:6 99:17 113:21 feelings 172:13 191:24 feels 52:19,20 97:25 fell 7:24,25 8:3,7 21:23 22:11 67:11 68:11,14 felt 19:24 39:11 50:11 62:9,19	72:7 78:15 fences 67:3,5 fewer 21:11 field 22:18,22 24:19 25:4 161:16 165:20 180:13 201:15 208:2,5 fifth 146:25 figure 165:11 177:2 figures 204:18 206:1 file 1:15 52:15 77:22 83:20 151:11 files 113:2 filled 41:14 134:1 final 128:10 finally 8:14 121:18 find 8:17 11:10 12:5 22:17 71:20 73:12 77:21 79:9 88:12 91:23 92:9 94:9 103:17 105:11 112:23 113:4 114:1,2,24 118:20 153:18 158:6 182:19 183:12 191:8 193:3 finding 101:13 179:2 findings 162:22 177:12 finds 167:2 fine 18:6 20:9 70:16 77:16 102:11 finished 43:11 176:9 first 1:13 10:12 11:3 24:25 48:21 51:12 59:17 74:24 79:15 86:7 104:16 112:14 121:13 123:21 129:15,17
--	---	--	---	---

149:13 162:6,15 170:10,11 178:25 183:20 192:18 196:12 206:11 firstly 120:24 204:4 204:7 205:9 five 3:8 7:21 85:9 89:16 122:9 five-year-old 37:14 40:1 flagged 94:16 flagging 104:25 flat 15:20 flip-side 8:23 floor 15:20 43:6 fluid 167:19 focus 95:25 96:9,14 101:1 169:24 focuses 80:16 157:10 focusing 4:5 follow 61:8 followed 61:10 64:15 73:9 95:5 101:20 108:10 following 63:20 69:14 119:2 139:18,19,22 fond 72:17 foolish 31:6 footnote 32:24 force 133:8 134:12 142:21,22 155:12 157:5,14,15 forced 114:6 forces 134:9 135:5 135:6 144:6 157:12 forensic 208:6 forensically 46:21 forever 167:23 forgive 139:13 153:17 form 23:20 60:4 134:1,2,8,9,11	135:14 138:12 140:5,13,16 141:15 144:23 166:24 176:17,25 182:6 195:14 207:18 forma 134:14 formal 11:13 128:6 137:20,25 139:25 199:17 207:10,10 formally 17:23 28:13 formed 54:6 forms 5:15 167:13 181:4,22 182:8,18 198:25 formulate 24:6 forward 111:22 foster 6:5 7:11 45:19 89:20,22 91:23,24 92:4,7 92:10,19 93:7 118:7 179:15 189:25 206:23 fostered 7:14 fostering 92:9 foul 187:24 found 13:4 28:4 59:21 90:3 94:12 95:4,13 102:3 147:19 155:16 164:1 189:7,18,25 193:11 194:3,7 199:24 foundation 10:25 12:13 foundations 192:10 four 8:20 18:8 29:24 37:1 47:5 170:10 178:24 fourth 39:2 52:14 frame 109:5 framework 162:5 free 102:25 120:24 160:18	frequency 186:11 195:7 frequent 87:15,19 194:13 197:4 frequently 14:20 50:5 103:10 195:11 friends 6:25 10:24 80:4 frightening 69:25 front 1:15 2:1 15:21 83:11 121:4 121:6 160:6 front-line 155:24 frozen 66:19 fucking 55:21 fulcrum 124:4 full 155:16 159:13 202:22 fuller 159:6,7 fully 100:12 function 10:24 74:24 116:24 117:4,6 funding 116:3 further 57:25 65:23 82:21 118:22 135:23 146:1,6 159:17 164:11 167:14 177:4 180:9 188:6 202:3 210:14 future 16:22 151:20 167:24 Fyson 194:2 196:9 Fyson's 194:4 196:12	140:18,25 gathering 159:10 gay 43:18 geared 155:13 gender 173:2 184:13 general 79:12 107:16 126:24 128:3 174:2 198:21 210:1 generalise 195:22 generalities 76:6 generally 44:16 101:3 175:10,11 179:8 183:12 193:6 201:20 206:6 208:23 genitals 195:9,12 geographically 200:11,20 geography 86:21 getting 19:11 82:14 93:24 96:18,19 110:20 167:12 205:4 girlfriend 107:12 give 10:9 11:20 22:20 43:1 44:1 70:19 86:7 114:1 119:25 121:23 124:14,23 125:2,5 125:11,12 128:11 132:4,5,20 135:21 139:20 141:25 149:11,14,16 151:5 154:1 155:2 155:3,14 160:4 166:9 178:23 179:19 187:3,10 189:24 199:9 given 25:13 33:19 39:24 47:2 53:11 58:3 62:11 65:8 69:11 72:3 90:20 99:6 100:7 111:14	125:16 133:19 139:3 140:20 143:18 144:11,12 144:21 157:1 159:6 163:2 169:19,19 174:23 186:7 196:8 198:16 gives 25:9 140:17 150:8 207:1 giving 15:4 29:22 75:18 126:2 128:14 149:8 150:25 go 1:4 4:15 6:5,23 11:17,19 12:21 17:1 20:13 24:25 31:11 33:18 36:5 36:13 37:23,25 38:22 43:1,16,20 46:20 52:12 53:2 53:4,17,20,20 57:19,20 60:8,16 64:21 65:2,23 71:14 72:19 73:22 76:2 87:11,13 89:8 92:17,20 93:12,15 97:3,11 99:22,25 100:24 101:2 102:1 103:1 104:21 106:3 107:6,7 112:4,23 113:7 114:8 115:7 128:2 129:12,23 130:21 136:4 141:3,5,17 146:25 148:24 149:2 150:9,19 151:1,4 153:9,10 155:15 158:10 162:15,21 163:25 187:1 188:21,24 192:3 195:1 203:6,22 205:14 goad 19:9
G				
game 94:2 gang 172:25 gangs 172:25 gap 47:9 103:13,15 gates/fence 49:6 gathered 58:7				

goaded 19:4	governors 21:25 30:23	H	happens 79:2,7,23 79:24 104:16 174:24 205:11	headed 140:16
goadings 19:23	gowns 125:13	Hackett 159:22		health 80:10 86:23 90:13
goes 12:23 80:11 94:3 97:18 201:16	grappled 208:20	160:1,3 161:2	happy 139:1	healthy 10:20
going 1:19,22 4:10	great 37:25 72:12	176:2,8 210:7,11	198:15	167:13 168:10
8:24 12:4 14:8,25	117:20 129:13	210:13 211:15	hard 5:5 21:16	198:15
19:7,12 20:4	190:1	half 4:22 15:12,25	22:17 41:5 50:19	hear 34:16 80:8
23:14 24:9 34:4	greater 101:2	17:24 44:5 49:2	87:4,11 90:3	155:10 204:19
40:23 46:20 52:11	118:19	55:13 69:3 163:6	101:15	210:15
55:7 64:5,9,21	Green 200:15	193:10,11,17,23	harder 118:20	heard 7:8 12:20
65:3,19 67:19	Gregor 124:18	half-sister 148:11	170:15,16	15:8 62:9 83:8
70:8,10 72:4,11	141:18	halfway 138:12	harm 64:18 65:11	87:25 89:24 97:24
72:13 78:23,25	grey 28:11 65:7	Halifax 115:23	66:4 167:1,4,9	98:11 120:1
80:8 82:3 83:14	grips 194:15 209:5	hand 46:19 145:21	202:8 207:1 209:5	154:22 155:11
86:14 89:7,19	gross 178:11	handed 52:16	harmed 49:3	156:19 182:11,23
96:24 98:16 101:1	ground 104:4 128:7	133:16	harmful 72:20	184:16 198:14
101:4,19,23	grounds 48:5 65:9	handful 5:4	161:8 162:3,5,8	200:7 208:14
102:23 106:3,6	65:20	handily 190:25	162:11 164:2,7,12	hearing 1:4,7 83:2
110:21 112:21	group 137:21	handled 59:15	164:18,23 165:2,7	210:18
115:7 116:10	161:25 165:4	65:25	165:8,14 166:23	heavily 93:17
118:18 121:7,18	166:9,12 171:9	hands 152:10,10	167:2,14 169:6,11	156:16 180:5
122:25 123:3,7	172:9,16,19	handwritten	169:14 170:13	height 67:3
129:12 138:7	178:17 179:24	103:25	171:10 173:22	held 13:11 15:21
139:2 143:4	181:14 185:25	happen 58:19	174:9 176:11,22	28:16,17 59:6
159:10 173:13	196:21 197:9	91:21 95:14 97:21	177:8,25 178:16	77:5 84:10 94:10
174:19 177:3	grouping 200:12	98:2 113:24 114:4	178:17,21 179:4	94:13 122:7
185:21,25 187:17	groups 197:20	118:11 178:21,22	180:13 181:15	150:10
187:18 195:24	209:7 210:2	happened 10:19	186:22 187:6,18	help 6:1 7:9 8:16
199:12	growing 163:22	40:17 41:4 54:19	188:20 189:9	10:22 11:8 41:25
good 1:3 10:16 11:2	guess 175:22	54:22 62:10,18	190:19 191:2,14	62:8 72:18 86:5
11:12,15 12:15	205:16	63:14 67:23 73:6	192:20 194:5,25	97:25 104:4
57:16 64:22,24	guidance 2:20	74:7 76:13,14	195:4 198:3,9	114:16 143:4
67:21 68:10,12,14	30:22 31:16 36:2	81:1 94:3 98:17	199:2,6 200:21	183:2,3 199:12,25
68:15 81:4 118:9	98:18 123:20	100:9 107:25	205:8 206:25	209:1
120:22 122:14	126:15 127:4,15	109:24 110:1	207:20 208:2,4,7	helped 63:4,13 75:8
153:9,12 160:3	127:18 128:17	112:12 117:21	209:9,11	188:5
180:12,14 181:6	134:13 143:18	147:23 151:24	Harris 129:25	helpful 67:6 190:11
207:25 210:5	144:22 149:9	157:4 159:13	130:3,14	helpfully 165:9
Gordon 21:19	151:11,12 152:6	204:1	Hartlepool 15:10	helping 10:23 24:6
govern 185:3	152:11,17,21	happening 10:16	hated 47:1	72:20
governance 21:18	162:4 208:13,17	14:17 43:14,24	head 18:7,17 22:13	helpline 193:13
30:18 122:5,11,12	Guide' 126:18	45:13,18 48:9,20	23:10,11 24:17	helps 80:5 168:5
governing 22:9	guided 143:23	76:8 82:14,15	29:3 35:8,11,13	hiding 178:8
30:25 33:2	guidelines 162:1,2	94:5 149:5 157:1	107:15 122:3	high 25:24 37:16
governor 30:14,17	guilt 203:15	157:2 192:17	194:23	38:13 39:18 51:2

64:8 100:5 114:15 206:9 high-quality 11:25 higher 179:9 181:11,23 highlight 13:15 32:23 37:24 38:25 51:10,18 57:21 124:21 141:6 186:16 highlighted 171:25 highlights 186:12 highly 72:14 171:16 179:23 197:10 hindsight 70:20,23 99:20 101:15 hinge 155:5 hired 27:19 historic 153:1 historical 201:10 historically 87:18 histories 195:20 208:25 history 60:9 106:15 182:6 hit 14:25 hitting 196:21 hold 19:10,13,15 65:21 81:9 109:8 153:8 holds 190:3 holiday 103:19 holidays 50:24 holistic 118:4 home 3:23 6:25 10:6,20 17:22 18:7,18 22:18 37:1,23 38:1,8,15 39:6,19 40:8 41:2 42:24 51:25 52:1 52:4,5,8 53:10,15 65:17 67:4 68:23 75:17 78:11 89:19 89:23 90:3,6 91:7	91:10 93:2,21 94:5,16 96:23,25 99:18 100:7,11 110:11 111:15 119:11 120:4 126:17 127:15,17 130:19 136:7 164:7 179:16 homes 7:20,22 8:5 10:11 24:19 25:4 35:9,19 68:8,14 69:4 80:2 101:3 119:13 122:22 158:24 199:23 200:3 homophobia 198:25 homophobic 198:24 honest 53:18 92:1 115:1 hope 78:23 hopefully 83:11 hormonal 174:23 hormones 175:4 horrible 67:14 hospital 138:21 host 125:21 hot 43:12 hour 12:2 15:11,25 house 7:24,25 8:3,7 21:23 22:11 68:11 68:14 107:13 hubs 137:21 157:22 huge 166:1 193:3 hugely 201:21 204:17 hundreds 152:4 hurt 16:10,12 107:9 husband 35:15 hypermasculinity 199:1 hypotheses 177:11 hypothesis 179:5	hypothesised 191:1 <hr/> I <hr/> idea 10:9 92:4 166:1 167:15 170:3 172:9 179:4 ideal 91:22 identified 59:20 92:16 118:4,6 165:10 173:13 176:18 177:9,19 177:24 183:1,21 184:13 185:11,20 188:18 189:25 200:9 identifies 181:19 194:24 196:7 identify 52:21 90:4 92:2 119:8 122:14 126:19 164:13 166:25 167:10,15 168:22,24,25 174:7,7 176:13 177:3,3 178:15,18 178:19,22 181:18 182:4,13,15 183:19 186:24 190:8,25 191:1 193:9,17 198:4 199:14 201:2 203:3,5 207:3,11 identifying 115:22 166:6 identity 175:5 180:4 images 186:4 imagine 62:1 70:19 87:7 142:22 204:10 immediate 77:8 113:20 161:23 immediately 16:3 55:16 69:13 70:4 113:3 114:3 imminent 65:11	impact 39:14,18 99:3 101:21,22 167:8 186:19 190:19,23 191:10 198:8,14 impacts 191:16 impediments 203:8 impetus 3:22 implement 122:15 implementation 66:7 implication 168:8 importance 174:22 207:4 important 8:11 11:24 28:8 79:21 82:10 83:16 88:2 107:15 121:20 168:1 187:13 202:11 importantly 83:14 improved 23:14 67:20 improvement 68:16 104:11 inability 130:9 172:13 inadequacy 191:24 inappropriate 164:25 165:7 166:8,11,13 194:7 194:10,17,18 196:9 199:20 inappropriately 202:3 inappropriateness 168:15 incident 15:9 17:13 43:3,5 49:18,20 49:21 50:1 55:8 56:15 61:17 64:17 65:24 91:10 95:12 95:17,25 112:12 140:7 146:9 153:2 154:9 157:18	incidents 16:5,8,16 36:22 38:10,12 43:23 47:21 48:12 63:20 67:11 68:1 90:4,7 95:5,12,22 100:2,4 164:9 194:5,11 201:10 include 124:6 128:3 195:7 included 89:13 includes 124:14 129:14 including 33:13 51:5 56:20 65:5 99:9 161:9 181:23 203:15 inclusion 125:23 incorrect 152:13 increase 4:24 44:16 111:1 163:16 increased 5:10 45:9 174:22 183:8 increasing 39:4 61:14 191:22 increasingly 65:1 incredibly 21:16 88:2 113:22 indecent 77:24 independence 27:13 33:7 independent 26:21 29:16 66:22,24 67:9 68:3 82:14 101:25 102:2 104:19 111:24 160:13 indicate 132:3 135:13 163:21 indicated 58:6 178:3 179:11 196:16,16 indicates 60:17 indication 119:25 136:1 indicators 135:24
--	--	--	---	---

136:1 indirect 191:17 192:4 individual 29:18 80:5 105:21 121:18 140:12 142:5 155:18 167:1 185:22 197:19 individuals 137:22 157:8 168:20 204:6 208:15 induction 32:4 34:18 ineffective 66:8 inevitable 167:16 inevitably 87:14,15 infancy 142:16 infantilise 184:5 infer 154:11 167:5 inflicted 171:20 influenced 174:4 influencer 169:17 influences 169:13 169:16 170:5 172:7 173:20 187:9 198:3 influencing 110:18 influential 170:8 inform 109:18 131:1 informal 138:25 185:3 information 4:11 29:17,22 30:4,5 31:23 39:24,25 60:21,21,25 61:5 72:5 77:22 91:12 91:13 95:11,13 99:6 109:11,13 110:6 112:15 128:23 129:7 130:18 131:12 133:1,16,19 134:15 135:4,6,9	135:12 136:22 138:2 140:18,19 140:25 143:10 145:19,21 148:12 152:16 154:6,7 155:18 156:17 157:7,10,20,24,25 158:6,8,23 159:11 162:14 168:18 202:16 203:1 206:20 210:5 informed 58:21 101:10 111:7,8 112:9,10 113:4 informing 94:18 initial 142:8 initially 20:20 94:1 injuries 13:25 injury 16:6,9,15 innately 167:5 input 114:16 INQ 149:1 inquiries 122:22 inquiry 4:4 79:13 82:11 121:22 153:1 inside 42:24 inspected 69:1 inspection 17:11 20:5 30:9 63:24 64:13 67:9 68:2 inspections 18:20 65:18 inspector 18:21 Inspectors 66:6 instability 189:4 206:4 instance 166:12 191:20 197:3 instances 42:19,22 42:24 90:2 153:25 institution 7:10 193:15 195:6 197:14 198:16 200:18 204:9	institutional 198:2 198:7,12 199:18 institutions 3:12 179:15 197:18 199:2 200:20 205:7 instructor 14:13 instructors 14:15 integrating 208:8 integrity 27:18 intellectual 176:18 177:1 178:5 intelligence 136:20 156:22 157:11 intense 186:18 intensively 90:22 intent 166:24 167:5 167:9 intention 4:7 intents 35:24 interact 192:6,12 interacting 172:11 interaction 175:23 179:21 182:1 184:20 185:7 interactions 180:23 182:20 183:11 191:25 interactive 185:7 interchangeable 30:23 interconnect 182:2 interested 176:12 interestingly 175:12 interests 12:16 139:25 169:18 183:24 interim 116:22 intermediaries 125:24,25 142:11 142:15,19 145:8 intermediary 143:1 150:8 internally 33:17	34:5 39:20 40:13 56:4 60:5 interpreting 183:8 intervene 65:10 intervention 14:12 14:24 15:3 67:3 206:17 interventions 14:23 201:25 206:12,14 interview 31:14,24 43:3,5,23 56:10 56:13 69:14,18 102:2 113:8 123:5 126:8 127:20,24 128:6,7,12,19 130:8,16 131:15 131:24 132:4,21 134:24 135:2,21 138:4,25 139:3,25 142:5,11,13 143:3 144:16,19 145:2 146:7,15 152:2,20 152:22 154:1,16 155:21 interviewed 57:14 58:22 69:19,21 78:7 113:11,14 128:15 130:21 131:10 132:17 134:19 144:13 145:15 158:3 Interviewers 127:21 interviewing 95:7 98:16 133:17 145:7 interviewing' 58:5 interviews 57:7 127:7,8,12 131:12 131:13 142:19 144:4 153:2 intimacy 170:11,14 185:10,12,14,17 intimate 170:17 188:9 192:1	intimidated 129:3 141:5 intimidation 141:2 173:7 introduce 82:9 142:19 introduced 125:21 208:13 introductory 161:2 162:14 intrusive 201:25 investigate 97:20 investigated 73:4 106:15 112:21 122:21 investigating 129:25 158:5 159:9 investigation 13:20 54:6 107:23 129:9 132:24 135:22 145:25 156:20,21 156:24 158:15,22 160:13 185:22 190:6 investigations 122:18 124:9 investigative 129:6 investigator 158:18 investigators 124:8 invitations 22:21 invite 22:19 invited 63:9 involve 33:13,15 63:5 involved 12:10 13:19 17:18 18:8 18:9,11,17 44:19 56:19 58:3,4 86:1 100:13 123:10,14 132:10 157:3 193:13,14 208:15 involvement 73:16 97:7 127:25 130:4 159:14
---	--	--	---	---

involving 33:8 95:6	joint 11:16	187:10 188:11	206:25 207:12,19	197:2,6
inward 200:18	jokes 198:24,24	196:7 199:24	208:24 209:23,24	latest 23:14 24:17
irrespective 157:18	Jonathan 120:18	206:3,6,15 208:6	210:1,3	law 123:19 125:6
isolate 200:23	120:20 211:9	208:21 210:1	knowledge 2:7	152:18,20
isolated 66:7	journey 87:6	kinds 180:3 186:14	47:24,24 48:8	lawfully 149:10
200:11,11	judge 149:21	197:12,15,21	74:22 83:24,25	lawyer 132:13
isolation 6:24	150:14 207:15	199:4,9 206:22	85:20,23,24	layman 24:8 85:5
178:25 179:2,5,9	judges 150:23	210:3	119:16 121:16	layperson's 169:2
191:22 200:16,17	judgment 67:20	knew 37:12,16	183:21 208:1,3,4	lead 9:3,25 32:19
202:4 210:2	judgments 68:9	58:18 62:18 63:14	208:6,10	33:6 35:6 103:2,3
issue 13:3 19:22	126:22	110:20 111:11	knowledgeable	168:19 169:5
46:9 63:22 64:3,5	July 40:5 42:15	know 1:18,19,19,21	23:19	188:6
65:13,22 67:15	74:25	2:10 9:7,7 19:14	known 15:14 21:13	leadership 33:5
77:6 79:15,19	jump 175:16	22:24 27:5 31:17	121:22 127:11	leads 170:3
86:23 96:14	June 47:5,7,21	38:20 40:2,16	140:21 148:13	learned 5:7 122:14
115:13,15,18	junior 34:11	42:19,25 44:2,12	knows 27:12 55:25	learning 11:8 16:23
118:12,15 119:5	jurisdictions	45:17,21 46:4	130:25	155:1 171:20
127:1 134:25	164:20	47:8 54:5,15,18	<hr/> L <hr/>	176:17,25 177:20
146:6 154:25	justice 123:25	54:22 55:12 56:17	labelled 172:21	177:22,24 178:4
155:9 157:12	124:24 125:18	56:22 61:20 62:7	lack 100:23 183:12	179:7 180:1
158:3 172:1 180:7	127:22 143:15	62:10 67:14 73:6	183:20 184:11	181:15 182:19
188:3 189:4 201:5	149:25 151:15	73:23,25 74:6,10	200:1 203:13	183:7 184:5,25
issued 162:2	162:24	74:12,21 80:20	lacking 123:6	leave 6:2,4,6 9:14
issues 12:24 13:2	justification 65:5	81:8 82:22 83:14	LADO 20:3 21:7	9:21 66:11 70:3
36:4 59:21 63:15	65:20	83:18 86:20,21	30:3	70:10
64:20 79:13 80:17	justified 16:2	91:25 95:15 96:6	Lancashire 131:5,6	leaves 85:3 206:4
85:18 86:25 98:5	<hr/> K <hr/>	100:10 101:16	133:1,3,15 134:7	leaving 65:14 66:3
117:6 119:3 123:7	keep 40:20 41:25	102:6 103:9 104:3	135:2 136:7	69:10 85:13
135:24 141:21	83:17 88:14 153:4	105:6 110:21	142:20,22 156:21	led 4:24 19:5 90:7
142:4 147:4,13,17	153:19	111:1 112:6	157:2,19 158:3,6	103:4 122:17
161:2 162:13	Keeping 31:13	114:18 115:14	language 97:5	145:25 146:8
171:6 182:25	32:16,22	116:20 121:3,19	119:13 137:2	left 4:22 45:16
201:2 204:3 207:6	kept 14:8 49:6	133:23 135:8	141:10,12 169:2	46:18 50:9 53:23
ivy 67:5	key 93:6 117:23	139:6 144:8	190:15 195:8	55:13 61:9 65:20
<hr/> J <hr/>	125:11 169:17	160:22 170:12	197:4	71:1 112:25
James 154:22	187:21 206:1	171:14 173:22	large 24:9 45:19	114:10 116:18
January 38:20,23	kicked 9:9 11:7	174:21 179:11	180:2 182:5	117:21 176:8
50:1 69:9 78:8	kicking 15:24	180:18 181:10	largely 24:1,15	legal 156:13
103:15	kind 31:8 48:24	183:14,15 186:18	182:8 196:22	legislation 2:21
jargon 169:8	80:4 81:2 120:6	187:20,21 189:21	largest 200:13	154:19
170:21	143:4 163:21	190:13 191:23	lasted 118:7	legitimacy 184:7
job 25:17 85:7	168:2 171:7 178:6	193:7,19 200:24	lastly 1:19 79:12	legitimise 199:5
190:3	179:19 180:18	201:21,24 202:2,3	185:10	Lenahan 68:23
join 21:12 81:8	184:7 185:17	202:24 204:8	late 48:19 196:25	82:11 88:1 182:24
		205:20 206:5,19		200:8

Lenehan's 200:25	links 183:9 185:16	130:25 133:5,9,18	looked-after 5:20	11:21 37:13 90:9
length 74:13	lion's 135:4	134:18 135:9,13	84:23 85:7,9	206:13
130:10	list 44:2 128:2,10	146:25	96:18 98:3 108:3	maintain 118:13
lengthy 52:12	140:17 141:3	long 5:5 15:25	110:4 117:18	119:14
lens 168:1 201:11	196:15 197:8	40:21 47:7 84:13	123:2	majority 5:24
lessons 5:7 122:14	203:12	103:20,21,21	looking 6:14 14:13	154:13 186:25
let's 2:16 5:12 13:6	listen 206:19	122:7 156:3 183:7	17:15 18:21 20:15	187:16,20
22:15 24:25	listening 8:2	long-lasting 12:24	47:13 58:25 62:4	making 10:21
106:17,20 119:21	literal 185:5	long-term 104:23	85:22 89:7 91:14	12:14 18:12 49:12
letter 109:10 146:8	literature 192:20	115:12 161:9	102:23 103:1	88:7,8 137:17
146:13	193:4	188:3 205:25	108:16 111:18,25	189:13
level 6:19 13:8	little 5:12 8:10 9:11	longer 106:6	122:25 123:3,7,19	male 174:14 193:14
15:12 18:13 25:24	25:22 30:25 44:2	189:22	147:14,19 171:19	manage 11:12
29:24 37:17 38:3	46:18 85:22,23	longer-term 114:24	177:12 200:15,18	172:13 194:14
38:12 39:11,18	99:5 106:17 107:9	longstanding 39:1	looks 24:15 77:20	197:12,15 200:21
64:8 82:5,9 96:10	120:11 123:19	look 5:7,12 8:16	92:13 98:22	managed 186:7
100:4,24 102:20	164:1 165:16	9:17 13:2,6 17:23	112:14	management 68:18
104:10 114:15	168:17 177:10	17:24,24,25 18:1	loss 206:6	81:24,25 202:25
115:10,19 116:6	182:23 190:10	18:16 20:4,8,10	lot 12:3,9 16:2,24	manager 17:22
141:21 144:11	191:4 194:3 198:6	21:1 24:25 29:8	27:17 46:19,21	68:17 84:2,9,21
152:8 154:13	200:19 201:13,23	36:1,5 41:6 55:7	49:16 50:9 63:3	84:23 85:7 91:16
177:16 178:8	203:23	65:12 67:4,7,25	67:12,23 80:1	94:15 100:11,12
180:16 196:9	live 7:22 87:12	69:6 74:17 75:20	85:15,24,25 96:11	104:10 106:14
206:9	169:3,22 179:12	80:5 81:7 90:22	98:5 117:16	110:7 146:5
levels 38:13 100:5	179:14 199:19	93:10 100:15	119:22 189:12	managers 18:6
104:11 191:24	lived 193:14	106:17 114:9	lots 12:22 93:18	29:3,25 35:8,9,19
201:19	lives 75:17 173:19	124:20 126:13	203:19 205:23	84:4,5 88:12
lies 35:17	188:12	127:17 128:21	loved 10:13	managing 48:5
life 15:15 36:14,15	living 7:21 96:16	135:14 137:6	lovely 10:14	162:3 168:14
86:1 89:11,13	175:19 177:15,16	138:10 139:11	low 16:14 191:23	186:14 187:11
175:18,22 188:9	188:7 209:12	141:19 147:5	191:24	197:20
lifeblood 156:23	local 11:15,21	151:10 153:11	low-level 201:22	manner 171:22
light 45:24 55:16	24:22 25:24 33:15	158:5,11 163:3	low/average 136:20	205:9
55:20 56:2 82:12	59:9 69:11 70:8	164:4	lower 209:21	manuals 208:18
205:6	80:24 86:17,20,20	looked 5:22,25	lower-level 164:25	March 146:10
lights 61:15	86:22,25 87:12	10:13 17:12,14	209:21	147:1
likelihood 174:9	88:4,6,16 89:4	26:6 36:4 45:11	lump 165:24	mark 16:15
192:16 199:10	95:15 97:22 116:2	48:11 68:6 81:19	lunch 120:12	MASH 157:24
line 57:16 64:10	116:15 119:10,14	85:22 89:17,19,21		Masters 4:2
104:21,21 129:13	163:24	108:12 111:4	M	masturbating 43:9
129:13	locally 28:17 88:15	163:23 174:16	macho 198:23	195:11
lines 62:6	location 164:5,6	176:23 177:13	magistrates 149:21	masturbation
link 183:24 187:13	166:15	185:23 188:2	150:23	194:16 197:5
187:14,15	log 51:8 129:2,4,11	193:4 195:19	main 115:18 198:2	match 202:13
linked 162:4 172:6	129:14,23 130:20	199:22	mainstream 6:2,23	mate's 43:11

material 158:22,23 159:2,5	meet 28:12 87:25 198:17	136:11	mixture 173:17 197:17	97:24 99:24 106:22 111:4 112:6 210:16
materials 42:14 208:18	meeting 13:10,12 27:1 28:15 29:1 31:2 37:20,25 59:6,17 61:4 76:15 77:2,9 91:16 92:12,13,22 94:10,12,14,17,22 95:3 97:16,20,23 98:8,14 99:24 100:10,14 102:17 102:19 106:12,13 107:21,22 116:17 137:12,12	mentioned 17:2 71:19 77:23 125:8 132:8 145:7 157:21	Mmm 25:21 30:21 35:18 51:4,7 58:12 73:8 107:5 110:12,14 111:10 112:8 114:17	mother 147:20,24 motivations 46:25 move 11:12 15:1 62:8 91:9 147:20
matter 33:16 34:24 129:15 141:24 147:3 148:5 150:14 151:16	meets 14:14 23:13	mentioning 38:8 39:7	Mmm-hmm 21:24 24:14 36:21 46:12 46:17 51:17 53:16 54:21 56:7 60:19 63:17 69:15,17,20 70:2 76:1 78:5 79:17	moved 50:8 62:14 62:15 70:18,24 85:4,13 117:4,25 118:1,1,7,17 131:2 156:3
mattered 188:4	member 13:21 14:2 14:16 17:2,16 20:19 33:5 34:17 40:9 42:3 53:6 55:20,25 56:3 80:25 113:5 190:4	met 171:7 173:8	model 165:11,21 168:3,3,25 170:9 173:5,14,24 188:23 190:25 191:1,4,15	moving 54:23 88:17 110:21
matters 129:12 135:22 138:16 141:3 144:24 147:5 160:9 184:11	meeting' 127:3	methods 145:5 157:25	modelled 199:7	multi-agency 137:21 157:22 159:14
maximised 142:1	meeting/section 107:22	metropolitan 142:21	models 191:5 199:8 206:1,18	multi-strategy 13:10,12
McGill 124:18,22 141:18,20 144:14	meetings 28:18 77:5 96:6,13,15 104:13,17 108:2	Mick 57:24	modeling 49:5	multifaceted 170:6
McGill's 126:14	members 15:11 31:18 33:9 38:14 39:10 40:5 45:2 53:9 56:4,10 57:13 58:13,21 172:25	middle 15:23 51:11 51:11 60:11 155:16	months 14:21 21:10 48:25 50:14 118:8 122:8 134:20 139:7 145:16 147:8	multiple 173:14,20 190:17 195:20
mean 8:13 23:12 44:14 52:1 63:2 85:5 103:23 117:22 119:21 137:14 170:7,23 175:20 179:1 184:17 197:16 198:11 204:7 207:10	memo 58:20	mind 80:15 100:20 106:4 109:5 167:12 173:12 195:24 205:4,14	monthly 81:19 103:11	mum 138:20
meaningful 188:11	memorised 160:18	minds 23:20 39:22 39:23 199:5	money 119:7,22	music 12:1
means 17:15 78:24 84:6 104:8 143:14 164:13 165:17 170:22,24 209:2	memory 1:13 83:9 99:19 113:3 116:13 121:1 141:22 160:17	minimise 205:9	monitored 19:16 88:22	mustn't 45:14
meant 166:6	men 175:15 184:15	minor 16:17	monitoring 49:5	
measures 45:22,23 52:7 124:8,12 125:4,8,9,17,22 127:2 141:23 142:1 143:4 150:6	Mencap 154:22	minute 28:18 105:9	month 74:12,15 104:1 161:22	<hr/> N <hr/>
mechanism 18:12 206:21	Mental 90:13	minutes 160:21	monthly 81:19 103:11	N 210:22
mechanisms 191:16 192:5 205:18 207:2	mention 83:16 128:13 132:7	misconstrued 187:3	months 14:21 21:10 48:25 50:14 118:8 122:8 134:20 139:7 145:16 147:8	naive 178:6
medical 128:12		misinterpreted 81:2	monitored 19:16 88:22	name 38:8 83:17 84:16 85:2 95:14 121:21 122:1 185:21 195:6
medically 128:15		missed 3:18 181:9	month 74:12,15 104:1 161:22	names 1:21 28:3 93:21,25 121:25
		missing 64:6 67:17 74:9 100:24 101:1 101:2,4,17,24,25 102:1,1,3,17,18 118:19 155:15	monthly 81:19 103:11	national 63:6 134:11 157:7,9 158:10,12 161:20
		missings 102:7	months 14:21 21:10 48:25 50:14 118:8 122:8 134:20 139:7 145:16 147:8	nationally 134:9 143:22 144:10
		mistake 54:13	mood 172:8	nationwide 163:13
		mistakenly 98:25	Morgan 120:18,20 120:22 156:10 158:19 211:9	natural 204:25
		misunderstand 182:21	morning 1:3,6 83:8	nature 4:4 38:11 87:9 90:23 100:3 164:5 166:14
		mix 169:15		

174:12 185:15 195:8 197:4 204:14 nearly 55:14 necessarily 16:1 37:3 100:22 119:17 133:10 155:20 157:10 166:14 167:8 177:7,19 184:17 185:14 189:1 192:10 193:19 194:6 196:4 208:4 necessary 83:12 need 1:14,17 3:17 6:25 10:12 12:15 13:2 34:4 35:1 45:5 58:23,24,24 71:10 76:2 79:9 80:16 83:10,13 94:16 96:11,12 101:17 111:4,20 111:22,25 113:25 118:10 121:2,23 130:21 131:9 136:17 144:1 145:6 149:19 160:21,23 167:17 168:13 174:20 187:10 193:20 202:15 207:9 208:7 needed 14:4 20:18 50:12 65:22 68:17 72:8,18 73:3 74:5 74:14 91:8 97:17 110:20 112:15 118:4 120:8,8 needing 194:14 needs 3:16 4:3 11:4 23:9 34:23 72:16 74:18,21 88:4 93:4 94:14 119:19 127:21,22 137:1,3 137:9 145:14	162:12 171:7 173:8 177:2 189:12 198:17 203:2 208:20,20 210:6 negative 172:8 188:23 203:14 neglect 5:16 6:15 6:19 36:22 161:4 171:15 182:9 190:22 191:10,20 195:18 neglected 3:4 11:24 neither 167:16 185:5 neuro-typical 179:24 182:6 neutral 80:20 81:4 never 16:10 95:6,6 115:11 146:16 nevertheless 79:21 new 74:7 97:11 105:19,19 115:16 NICE 162:1,4 Niche 153:23 NIELD 120:17,21 120:22 156:5 211:11 night 5:10 45:2,4 155:16 nightmares 45:5 nine 176:20 nine-year 176:24 no' 93:20 no-one 75:14 108:21 nod 127:25 nomenclature 127:14 non-disabled 177:16 178:14,18 179:10,18,20 180:17 181:11 non-exclusion 9:6 9:23	non-recent 122:21 123:1 nonconsensual 56:23 90:24 nonsexual 173:11 175:1 nonsexually 172:12 normal 138:5 166:3 183:15 186:3 195:23 197:6 normative 167:13 179:6,17 180:3 note 93:12 105:9 108:24 130:12 132:12 134:7 135:17 175:24 noted 130:3,20,25 132:9 137:1 notes 49:12 57:8 94:13 97:12 98:24 103:24 115:21 120:25 137:7,19 141:7 160:19 notice 54:23 137:24 206:19 notices 122:1 notification 80:20 notified 101:7,7 notion 165:5,18 169:11 172:12 174:17 187:2 190:18,24 196:23 201:16 206:6 209:16 November 43:4 47:6,22 48:13 50:13 53:21 54:4 54:20,22 55:8,12 55:20 57:6,6,11 69:16 77:12,15 78:4 104:16 109:21 112:10,12 112:16,20 129:2 129:24 131:24 Nowadays 137:16	NSPCC 40:19 41:24 61:19 69:9 73:19 74:16,20 76:3 80:11,12 107:8 115:25 116:1 117:12 146:3,5 147:4,13 162:5 nuanced 167:18 207:16 number 1:20 5:10 7:16 13:24 16:4,8 16:20 45:20 49:10 65:4 67:10 79:4 89:24 90:2 93:23 93:24 104:13 110:17 122:17 124:5,12 125:17 145:5 146:7,12 147:3,5 171:24 173:3,4 175:16,17 180:2 182:5 200:10 numbers 208:15 NYAS 63:6 <hr/> O <hr/> oath 176:2 object 119:7 observed 183:24 observing 166:17 obtain 123:4 154:2 obtained 129:9 158:25 obvious 93:17 178:1 191:12 obviously 9:1 99:14 100:9 145:9 163:11 169:3 176:11 192:6 197:5 occasion 8:18 58:1 occasionally 19:22 19:23 98:9 occasions 47:5 51:6	79:4 155:15,18 occupational 25:8 occur 86:16 192:15 occurred 135:3 136:14 164:9 occurrence 153:24 205:9 occurring 186:11 October 1:1 51:1 51:19,24 52:15 53:4 75:25 103:13 106:19 111:5 129:18 210:19 October/Novemb... 84:22 odd 8:18 53:24 132:22 offence 139:9 144:25 148:11 157:11 168:25 offences 58:2 122:18 offender 36:18 90:25 148:8 offer 12:9 offered 61:19 92:10 offering 50:17 office 98:12 126:17 127:15,17 officer 29:17 33:16 35:4 80:25 104:19 104:22 111:24 122:17 123:5,17 126:25 129:25 132:13,25 133:2,8 133:17 134:25 135:15 136:14 138:6,13,23 139:1 140:3,11 141:8 142:10,24 143:5,7 143:8 145:10,22 145:22 147:14 148:6,13 152:19 156:12 158:4,5,11 158:25 159:7
--	---	---	--	---

officer's 156:16	97:10 128:25	202:13 206:7	65:23 71:13,21,25	126:13,20 127:19
officers 123:13	144:16 186:12	ordinarily 144:16	72:1 92:18,20	141:19 162:16
126:21 127:8	194:11	ordinary 113:23	93:15 97:11 99:25	163:25 164:14
128:18 137:17	one's 175:3,4,5,5	115:6	128:2 129:23	167:11 176:15
138:1 143:8,13,18	one-fifth 194:12	organisation 17:9	130:20 135:14	183:18 190:9
143:24,25 144:11	one-off 50:1	101:25 122:14	136:4,5 138:23,24	195:1,24,25 201:3
144:20,23 145:3	one-way 167:16	161:20 197:15	140:15,15 141:6,6	paragraphs 114:11
149:6 151:25	one-year 162:18	originally 165:18	141:19 149:2,7,23	168:23 186:23
152:6,11,21 153:2	ones 22:9 125:11	other's 44:23 45:9	150:19 151:4,10	198:5
154:16,19 155:10	191:18 196:16	195:12	162:22 165:10,10	parcel 173:2 204:8
155:12,16,20,23	198:20	out-of-home	173:13 180:9	parental 135:16
157:15	online 32:11	192:17	183:19 193:16	parents 11:1,2 12:8
officers' 154:14	onset 169:16	outcome 188:2	195:2 199:15	101:8 183:22
official 164:15	172:22 174:12,17	outcomes 102:21	201:3 203:6	184:12 204:10,23
Ofsted 18:18,20	174:20,23	188:3,23	pages 49:17	204:24
20:5 29:23 30:3,5	onwards 178:23	outline 3:25	paid 27:23,24	Parkin 200:15
30:9,13 65:18	182:13,14 203:4	outside 24:7,15	Palmer 146:4	part 22:12 23:3,17
68:6,8	open 128:8	56:1 86:16 92:25	panel 2:2 3:25 10:9	23:20 25:1 27:10
oh 14:9,18 17:17	opened 2:18 195:5	200:4	22:5,16 23:3,6	32:4 33:14 34:17
19:18 23:1 27:14	openings 49:6	outstanding 68:10	24:23,25 25:2,5,7	34:19 42:14 43:2
29:2 30:7 35:3	operational 162:5	68:12,15	25:13 27:3,23,25	45:7 57:21 61:22
66:19 72:12 81:16	opinion 10:3 26:23	outward 200:18	28:12,15,23 30:4	66:24 81:10,11
OHY0004646_002	140:13 160:9	overall 68:10,12,16	30:24 31:5 68:7	93:6 117:2 127:17
149:1	opinions 160:8	180:25 206:8	71:21 82:23 83:2	139:15 140:5,16
OHY006987_012	opportunistic	overheard 55:21,23	83:20 118:21,23	140:17 141:7,13
43:1	178:6	57:6 59:3	119:1 120:11,17	141:15 161:25
OHY007911 134:5	opportunities	overly 171:21	121:10 156:6,9	163:1 173:2 174:8
OHY007911_003	125:13 179:19	overnight 114:22	159:21 162:16	183:4,4 184:4
135:15	181:8 184:20	overreaction 201:8	175:24 210:8	186:3 192:11
OHY007911_005	205:19 209:4	202:5 207:7	211:7,13	204:8
138:10	opportunity 90:23	overrough 19:25	paper 43:2 83:20	participants
OHY007914	128:7 163:3	oversee 25:17	104:6 121:4 170:4	137:22
129:11	180:22 184:23	oversight 18:13	papers 1:15 76:21	participate 123:21
okay 3:10 9:22 18:6	185:12	23:5 24:16 81:24	83:11	123:25 179:16
27:15 31:9 39:23	opt 126:10	82:5	paperwork 9:17	particular 13:4
80:3 196:14	option 7:10,12	overview 29:19,20	36:13 37:3 39:17	15:9 17:16,18
old 36:9,20 43:19	91:22 126:10	overwhelming	55:24 89:14 90:1	29:19,22 41:20
43:21 89:16	142:10,25	186:24	94:25 95:8 104:14	49:21 52:13 64:9
138:20 147:8	options 91:18		115:22	64:16 83:15 85:24
148:2	154:15		paragraph 7:18	102:19 105:25
older 3:12 57:4	oral 107:11		13:15 20:11,13	122:8 123:16
85:12	order 9:25 63:23	package 41:25	22:2 31:10 52:14	124:6,7 137:16,23
once 11:10 28:13	70:12 124:13	74:18,21	55:8 57:20 63:18	140:7 145:13
28:15 31:2,24	140:11 147:3	page 43:20 51:12	90:18 99:25	155:1,4 161:7,25
58:23 69:1 89:21	162:13 195:7	51:13 53:2,20	116:21 124:21,21	162:8 165:9 168:1
		60:8 64:21 65:2,2		
		P		

169:4,20 170:9,19 171:9 172:1,9,15 174:25,25 178:20 182:4,11,25 186:7 186:13,23 188:3 194:16 197:16 199:22 200:3,19 201:3 202:15 205:12 207:9 209:13 particularly 2:15 30:7 33:8 79:18 127:24 155:2 166:17 170:18,22 170:24,25 173:25 174:6 175:14 176:12 177:14 180:7 181:3 183:1 183:13,17 185:3 185:18 186:7 196:1 199:18 204:3 208:24 parties 150:3 partner 188:9 192:2 parts 160:25 party 158:23 159:4 pass 159:21 passed 60:21 75:10 112:19 passing 107:2 Pat 146:4 patchy 174:12 pathway 170:19,20 172:3,15 185:17 pathways 168:19 169:1,5 170:4,8 170:11 173:15 176:9 185:16 191:18 patrolled 180:5 pattern 37:5 patterns 17:23,24 17:25,25 18:1 pause 12:19	pay 27:21 PC 133:19,23 134:18,25 136:23 137:7 139:6 peak 174:9,13 peer 166:9,12 193:13,18,24 197:20 201:10 210:2 peers 179:10 204:23 205:1 206:10,23 penetration 194:20 penetrative 195:13 penis 43:7,21 186:5 196:6 penises 185:25 people 5:10,11 8:2 9:8 18:8 22:8,21 22:24 25:13 28:25 29:2 34:9 35:3 39:21 45:10 61:19 62:4 76:8 78:24 81:8 82:5 88:11 93:18,19,23,25 101:7,7,16 105:7 119:20 162:23 163:7,20 165:5,7 165:20 166:17 169:6 172:16,20 173:2,6,9,11 174:20 175:7 176:13,16,22 177:4 178:12 180:10,15,24 181:13,14,20,20 183:6,12,14 184:5 184:8,10,24,25 185:9 186:12,13 186:17 188:5 189:5,16,18 190:17 191:8,12 202:8,22 204:13 204:17,21 206:11 206:20,24	people's 173:19 175:22 183:10 199:5 perception 19:15 perfect 175:20 perform 107:11 175:5 performance 150:16 performances 11:18 performing 199:19 period 13:6 14:21 15:11 20:13 45:14 47:13 48:24 50:13 53:10 84:25 85:6 103:20,21 105:2 162:18 163:5 176:24 periods 89:18 164:20 permanent 84:24 permission 210:16 perpetrate 177:7 perpetrated 188:19 perpetrates 193:24 perpetrating 72:25 perpetrator 57:1,3 162:21 193:14 perpetrators 163:21 persist 89:1 person 15:22,23,24 19:11 23:8 26:24 28:23 30:10,11 32:12 45:6,25 46:3 59:2 80:9 94:20 102:2 149:7 158:9 160:14 162:25 171:6 173:5 176:10 177:21 202:1,2 204:4,11 person's 203:1 210:6	personal 74:22 85:20,23 personally 22:25 123:10 perspective 155:3 perspectives 184:9 pervasively 172:8 phone 52:16 76:10 158:7 physical 14:12,23 14:24 15:3 66:25 67:9,22 181:24 182:9 190:22 191:9,20 physically 47:18 57:4 65:21 200:11 pick 170:7 206:19 picked 113:6 177:18 178:7 picture 21:1 29:21 81:10 159:6,7,13 pictures 185:24 place 2:14 3:15,17 6:20 18:2,2 20:16 31:21 41:12 42:18 44:8 45:22 47:23 49:9 54:7 57:7 60:11,12 61:13,16 70:13 72:19 73:15 81:5 86:19 87:24 89:5 94:17 96:7 97:23 98:8,12,19 102:4,5 103:22 104:18 114:6 115:16 124:1 125:18,19,20 127:24 128:22,24 130:9 133:13,19 135:3,9,12 137:13 137:14,15,20 138:9 142:12,15 144:17 152:23 154:14 157:18 158:1 162:9 164:3 171:17 175:19	196:6 199:14 202:22,24 205:18 207:8 placed 3:12 7:1,11 40:18 72:13 86:8 86:16 87:1 88:3 89:22,25 90:3,14 98:11 99:1 114:22 116:22 118:3 131:2 185:9 209:9 209:19,22 placement 6:5 36:8 38:21 40:17 53:11 68:21 69:7,12 70:19 71:1,10,15 72:8 73:7 74:18 74:24 84:19 88:25 91:5,23 92:2,4,7 92:11 93:7 97:9 97:11 100:19 101:18 102:18,24 104:18,24 105:2,8 105:12,15,19,21 105:23 111:16,18 112:2 113:5 114:9 114:21 115:23 116:1,3 117:3,5 117:22,24 118:2,7 118:13,14,20 119:18 120:2,4,5 121:25 131:3 133:3 140:21,22 195:20 202:17 210:4 placements 74:7 85:18 89:20,22 103:3 105:18 113:4 118:19 119:4,9 188:22 places 9:7 45:16 82:12 117:1 166:13 186:22 placing 84:7 88:25 97:19 105:16 117:18
--	---	--	---	---

<p>plan 20:15 41:11 48:4 66:16,20,21 82:7,8 93:4</p> <p>planned 32:14 87:4</p> <p>planning 10:22 11:19 91:8 92:13 92:17,22 93:6 104:24 112:1 117:20</p> <p>plans 24:6 40:21 105:24 114:24 202:25</p> <p>play 3:20 11:9 22:14 42:7 180:14 192:11</p> <p>please 1:4,21 13:16 43:20 52:14 65:2 92:18 93:15 97:12 99:25 120:17,24 121:3 123:19 124:17,20,21 126:13 127:17,19 128:22 129:11,23 135:14,15 138:10 138:10,24 139:11 140:15 141:5,6,7 141:17,19 146:25 148:24,25 149:2 149:23 150:19 151:4 153:16 160:18,21 162:22 168:24 174:15 176:3 177:10 180:9 181:22 187:1,4 201:4 203:22,23</p> <p>pleased 210:15</p> <p>plenty 34:9</p> <p>plus 97:5</p> <p>pm 120:13,14,16 160:20,20 176:1,5 176:7 210:17</p> <p>PNC 157:6 158:10</p> <p>PND 157:9 158:9</p> <p>point 7:11 9:11,13</p>	<p>9:15 10:17 13:19 16:13 20:6,18 22:4 28:21 29:4 32:23 34:18 38:1 39:5 40:5 41:4 50:20 51:24 52:8 53:12,14 55:13 56:3 58:13,25 59:17 60:9 61:12 64:19 66:14,22 67:8,10 69:12 74:17 77:24 78:2 78:15 79:1 88:3 91:2,5,6 92:24 95:7 98:22 101:13 109:9 111:12,15 111:24 113:18 119:2 128:10 132:8 135:10 142:3 143:2 147:5 147:18 153:4,9,12 153:13,19 154:6 171:2 177:23 181:2 184:2,22 194:1 200:5 207:23</p> <p>points 21:9 38:25 64:22 65:4 160:16 205:12 207:3</p> <p>police 13:17,19 41:3 43:3 54:6 56:18,22 59:11 60:16,20,24 61:5 69:14,18 70:4,18 77:21 78:7 86:23 95:5,15 97:16 101:8 102:17 108:7,10 112:22 113:1,7,9 119:14 120:19 122:4,17 123:4,23 124:11 126:18 127:4,8 128:18,23,25 129:8,16 130:1,22 131:6,10 132:13</p>	<p>133:6 134:10 137:16 139:8 140:3 142:9 143:5 143:7,8,8,13 144:19 146:3,9 147:13 148:21 151:12,25 152:3,6 152:11 153:7 155:7,12 157:7 158:10,12 162:19 163:4,4,17</p> <p>policies 64:25 122:16 124:4,5,5 143:19</p> <p>policy 8:9,11,23 9:6 9:24 57:18,19 59:5 66:8 122:13 123:23 124:1 126:14 143:21 144:5,7 148:24 149:7 151:23 152:6</p> <p>polyvictimisation 190:8,16,24</p> <p>pompous 181:1</p> <p>pooling 208:9</p> <p>poor 36:22 141:11 141:12 191:22</p> <p>population 6:14 181:12</p> <p>position 33:3 91:20 94:22 117:10 119:7 148:21 154:20</p> <p>positive 52:21 189:23 203:24 205:8</p> <p>positively 206:24</p> <p>possible 7:15 21:17 54:12 97:7 114:16 144:25 154:2</p> <p>possibly 45:6,8 61:14 63:2,4 85:2 90:5 97:17 153:25 185:6 186:3</p>	<p>post 33:15 84:9,24 122:7,8</p> <p>Post-it 134:6</p> <p>potential 151:19 159:1 175:23</p> <p>potentially 56:15 176:10 188:23</p> <p>Povey 182:24 184:16</p> <p>power 31:4 34:22</p> <p>practice 57:16 63:3 96:14 101:12 122:15 138:5 149:5 161:19 165:23 187:22 201:7 202:6</p> <p>practices 139:12,14 198:12</p> <p>practise 128:8</p> <p>practitioners 165:20 168:2</p> <p>pre-adolescent 174:3 196:22</p> <p>pre-assessment 142:5 144:3</p> <p>pre-interview 137:12 138:11 152:4</p> <p>pre-verbal 12:4</p> <p>pre-video 143:2</p> <p>preadolescence 196:19</p> <p>precise 156:13</p> <p>precisely 71:14</p> <p>preconceptions 150:2</p> <p>predatory 44:12</p> <p>predictive 187:15</p> <p>predilection 191:5</p> <p>predominantly 97:6</p> <p>prefer 7:13 134:6</p> <p>preliminary 160:16</p> <p>prepared 136:19 137:1</p>	<p>presence 4:24 186:19</p> <p>present 76:9 151:20 175:1</p> <p>presentation 173:10</p> <p>presented 165:22</p> <p>presenting 170:13 179:3 181:15 187:6 197:17,21</p> <p>press 154:5 158:2,7</p> <p>pressure 202:21</p> <p>presumably 45:11 156:23</p> <p>presumption 126:5 126:10,12,24</p> <p>presumptions 150:1</p> <p>pretty 198:11</p> <p>prevalence 192:16 198:8</p> <p>prevalent 199:3</p> <p>prevent 61:14</p> <p>preventative 180:14</p> <p>preventing 168:14</p> <p>previous 38:15 39:19 40:8 41:2 47:2 78:10 95:4 96:22 97:7,8 110:10 111:20 127:25 130:3 148:4 154:9 157:8 175:18 195:2 203:2</p> <p>previously 77:13 106:16 134:20 139:7 145:16 175:9</p> <p>primarily 20:15 81:14 161:17 196:12</p> <p>primary 11:16,19 79:24</p> <p>primary-aged 5:14</p>
---	--	--	---	---

principal 1:8 2:17 27:1 65:11 84:21 84:22 91:16 108:15 110:15	proceed 78:1 79:5 110:9 146:6 153:5	202:23	152:16 156:17 189:25	pupils' 66:4
principle 149:11	proceeded 130:7 158:21	proportion 6:4 163:22 170:13 176:16 181:14 187:6	provider 115:24 118:5	purpose 122:10
prior 13:6 26:2,3 31:23 37:1 89:19 127:20,23 128:19 128:23 137:12 138:6 144:12 152:22	proceedings 123:21 124:3,15 149:14 149:18 151:20	proposed 164:23 170:10	providers 89:5 113:25 201:5,15 201:19 205:16	purposefully 8:23
prison 67:7,25	process 10:15 11:8 12:7 91:15 104:4 105:17 107:20 145:4 157:3	proprietor 2:21 26:3,4,20 30:19 30:20,22 33:1,9 33:12,22	provides 152:21 157:7	purposes 2:20 35:24 121:22
Privacy 42:5	processes 31:21 105:20	proprietor's 33:9	providing 33:19 165:4 176:21 201:23	push 11:13
private 36:14	processing 21:14	proprietors 2:25 26:6,16 33:24	provision 88:16 91:14 93:3,6 99:11 114:7,15,24 115:1,2,5,11,12 116:14 118:2,3,4 118:9,18 125:15 125:20	put 5:5 15:1 20:15 38:18 41:12,24 43:7,10 44:8 45:23 49:23 58:20 61:13,16 64:17 66:4 67:5 70:9 81:11 89:5 125:1 140:14 142:6 149:16 150:3,13 168:13 170:1 183:3 202:24
privy 62:17	produce 162:7	prosecution 13:18 57:24 124:18 127:2 131:17 132:13 148:18 151:23 152:17	provisions 125:22	puts 37:7 54:16 118:19 167:3
pro 134:14	produced 165:13	prosecutions 122:23 146:19	Provost 161:3	putting 40:16 88:15 102:25 119:9,11 205:18
pro-social 167:25 168:9	professional 10:25 27:17 143:11 160:9 168:10 176:17 177:6 189:4 207:25	prosecutor 151:13 151:18	proxy 30:13	
proactively 21:7	professionally 22:24 23:1	Prosecutors 148:25 149:3	psychological 136:18 148:5	Q
probably 18:18 20:10 39:21 54:11 69:7 70:23 71:13 85:6 98:20 110:17 110:23 111:22 142:23 153:9,10 193:10 207:17	professionals 138:3 143:11 163:19 177:14 184:4 201:20	Prospective 187:15	psychologist 23:22 25:6,8 41:24	qualifications 4:1,1 27:5,7 207:10
problem 35:17 95:21 174:18 188:7	Professor 159:22 160:1,3 161:2,3 176:2,8 210:7,11 210:13 211:15	prospects 92:10	psychologists 12:17 119:12	qualified 27:11
problematic 13:5 33:10,22 58:10 165:13 166:11,16 166:19 167:5 168:20 177:19,25 191:14 196:25 197:3 199:17	programme 10:7 23:24 80:5,11,12	protect 66:5	puberty 169:16 172:22 174:12,20 174:24 196:22	Quality 68:24,25
problems 7:2 66:2 71:7 86:16 161:15 170:14 172:21,23 174:3 189:5 197:17 210:6	programmes 12:11	protection 77:25 94:15 96:10 109:17 130:4 133:14,15 143:24 208:2	public 1:4 28:3,9 128:1 149:4 166:12 169:3 194:16 196:6	question 9:23 67:22 102:9 115:19 121:19 150:22 154:9,10,25 156:12,22 191:7 209:8,14
procedure 131:20 141:23	progress 117:23 169:18	protective 189:3	published 126:17 149:3 151:23	questioned 59:18
procedures 49:4 96:7 122:13,16	progressing 167:15	protocol 102:18	pull 157:20	Questioning 139:12,14
	project 116:1	prove 92:1	punch 9:8	questions 1:12 21:18,19 32:2 60:1 82:22,23,24 118:22,23 119:1 120:24 124:25 128:8 132:1,18 138:15,17 139:14 140:4,6,9,14
	prompted 3:9 63:22 64:8 68:3 108:14	provide 12:18 125:1 145:8 146:22 150:4 155:23 160:12 168:18 206:8	punitive 183:25	
	prompting 78:2	provided 116:11 124:25 133:23 135:13 142:8 143:23 150:2	pupil 64:9 65:9 66:3 68:11,12	
	proper 20:25		pupils 58:4,5,7 64:5,16 65:10 66:11	
	properly 33:17 82:14 138:1			

142:6,7 144:18,21 144:24,25 145:3,5 149:16 150:3,12 150:18 151:1 156:5,7,9 159:18 187:22 192:16 210:9,10 211:7,13 quick 87:13 quickly 76:25 114:23 quite 28:11 52:12 62:25 69:25 89:24 90:3,15 103:20 107:17 108:6 144:3 164:8 172:5 175:16 178:15 186:16,24 193:11 200:8,10 202:8,16 207:15 quiz 32:3 quoting 74:25	99:22 101:5 104:16 109:9 116:16 124:20 129:23 135:15 138:11,24 140:15 141:19 162:21 165:9 167:12 168:24 173:12 174:15 178:23 180:9 181:22 182:14 183:18 187:2 190:9 192:23 193:9,16 195:24 199:14 201:3 203:6,21 205:4,14 ramifications 151:19 range 16:16 90:20 164:24 166:1,2 168:6 169:13 178:11 199:23 rape 56:20 raped 54:19 rare 151:17 rarely 159:3 rate 51:2 120:1,2 179:10 181:11 193:22 rates 181:23 184:18 rationale 9:24 105:12,15 re-open 146:9 147:3 re-opened 146:14 147:12 reached 189:21 reactions 183:25 reactive 87:10 read 32:1,1 43:17 43:22 46:18 64:21 65:3 86:2,4 98:6 121:14 123:12 149:4 reading 98:24	113:2 116:20 ready 93:2 112:2 real 119:15 164:22 realise 56:14 realised 82:6 85:23 realistically 146:21 154:11 157:14 really 3:16 7:10 8:13 10:25 11:2,2 11:10,13,21,24,25 12:12 20:24 22:17 33:23 49:2 50:12 50:19,22 53:23 68:2 81:4 100:17 124:4 140:7,10 142:3 143:2,5 153:9 165:19 169:24 178:24 181:2 184:6 187:12 188:4 189:17 190:16 192:8 197:22 202:23 208:7,19 208:20 209:4,8 210:4 reason 19:8 37:12 38:2 54:9 61:9 67:24 68:16 70:17 101:6 103:17 121:2 128:6 133:12 139:3 reasonable 45:14 reasonably 103:10 reasoning 61:11 reasons 50:10 88:12 93:17 169:12 177:6 178:24 185:19 192:14 rebellion 9:2 recall 13:11 15:8 20:22 40:11,12,13 53:18 61:2,11 70:6 71:15 73:25 74:4 93:13 94:21	103:18 133:25 recalled 19:4 94:23 receive 118:14 204:5 207:18 received 114:11 126:7 129:1 reception 11:6 recognise 46:14 48:15 147:17 182:8 recognised 174:8 recognition 88:17 recollect 65:16 recollection 15:4 48:21 62:11 92:18 112:18,19 recommendation 73:18 74:20,20 recommendations 28:20 50:7 73:23 73:25 115:25 recommended 91:13 recommending 73:9 record 14:24 17:7 40:4,8 46:16 53:22 57:22 77:13 78:2 99:24 101:5 110:7 116:5 129:6 129:17 133:18,21 138:16 140:10 recorded 16:6 17:5 17:8 49:18,20 52:15 65:25 81:17 101:17 126:8 129:12,20 134:15 138:1 162:20 163:4 recording 17:1 95:22 153:23 records 29:8,8 95:4 99:22 103:9 108:17 147:7 153:19 163:7	red 16:15 redacted 2:3 70:9 74:14 83:21 93:17 reduce 18:4 refer 1:14,16 22:4 31:9 71:17 83:10 97:19 120:24 137:18 160:10,19 193:18 reference 27:25 66:14 124:6 142:25 144:19 152:18 171:2 190:7 200:5 references 196:4 referral 57:10 58:25 76:11,19,20 77:8,8 92:7 108:7 108:9,11,14 129:1 referrals 21:3 referred 8:19 61:18 97:22 112:21 134:16 148:5 152:19 161:10 163:3 176:23 179:1 referring 1:22 144:8 152:25 199:22 reflected 5:5 82:6 reflective 197:9 reflects 39:11 refresher 20:17,18 refuge 147:21,25 regard 143:22 regarded 126:25 regarding 109:11 137:4 registered 18:6 35:8,9,19 68:17 125:25 142:14 150:8 regularly 87:18 104:25 related 163:7,20
R				
R 150:10 RACHEL 83:5 211:3 railway 64:10 raise 67:5 96:13 108:24 147:17 180:7 raised 67:3 146:12 147:4,13 207:6 raises 100:25 Ralph 13:9,16 20:12 22:3 31:10 32:23 37:20,24 38:22 41:8 43:1 43:15,20 46:13 48:13 51:10,10,18 52:12,14 53:2,19 55:9 57:19 59:13 64:20 65:2,23 71:12 73:22 77:12 90:12 92:12,18 93:12,15 97:2,12				

<p>200:14 relates 193:23 relating 164:21 relation 33:8 46:9 78:7 79:23,25 81:14 84:19 95:9 95:25 126:15 129:9 130:22 131:9 135:4 145:20 151:10 158:23 207:24 relational 188:14 203:14 relationship 11:15 79:25 80:3,10 171:8 189:14 191:12 204:15 208:12,12,22 relationships 12:13 12:14 67:13 79:15 80:1 86:22,24 89:4 121:24 170:18 179:7 180:20 188:10 189:2,10,14 192:2 192:2 206:5 relatively 105:2 200:12 released 16:3 relevant 60:20 128:16 137:22 148:4 reliability 147:10 147:14 150:20,22 151:1 154:25 156:14 reliably 147:9 reliant 134:1 relied 136:15 remain 119:10 130:9 remained 14:4 118:6 remains 13:22 143:7</p>	<p>remark 132:9 remember 14:2,4 17:20 26:19 39:23 58:20 59:21 69:9 85:1 111:19 113:17 176:21 remote 200:20 removal 113:20 remove 112:15 removed 69:13 125:14 removing 107:12 repercussions 58:10 replies 138:17 139:15 140:6 report 14:1 19:19 34:7,9,23 37:3,9 69:8 74:1,4,16 90:13 99:9 105:10 107:8 117:12 129:1 132:3 136:15,18 148:6 160:4,7,18,25 162:8,15,16 163:6 164:14 167:11 168:23 174:8 176:15 177:4 178:19,23 182:4 182:13 183:5 186:23 190:9 192:19,23 198:5 202:20 203:4 205:4 207:3 reported 19:24 20:1,3 41:3 80:25 93:11 95:5 122:18 129:8,16 162:19 193:12 194:4,11 202:21 reporting 80:24 81:4 194:10 reports 28:23,25 29:3 56:3 88:9 99:8 104:1,12</p>	<p>136:12 147:20 163:16 represent 21:20 160:8 represented 164:8 require 150:12 required 146:22 159:1 requirements 134:13 requires 42:5 68:16 requiring 145:6 research 161:7 162:17 163:21,23 165:23 167:19 169:4 171:23 176:14 178:3 181:19 183:1,4,5 184:21 190:5 193:1,7,13,25 194:2,4 195:3 196:9,12 200:16 200:25,25 203:18 researcher 161:18 researchers 173:16 resident 29:3 residential 3:12,15 118:9 122:22 162:10 169:23 177:15 179:15 192:17,21,22 193:5,6,18,22 194:1,6 200:9,10 204:6,13,16,24 205:7,7,16 206:2 206:15 208:22 residents 39:8 resilience 10:23 205:24 resolve 65:22 resort 172:10 173:9 resources 86:25 88:15 119:18,20 respect 18:13 21:6 62:23 104:24</p>	<p>108:4 158:15 173:23 180:7 182:12 186:21 189:13 respects 63:1 respond 144:18 207:22 responding 50:17 responds 132:17 168:5 response 132:5 187:10 203:15 responses 150:17 163:1 189:4 198:7 201:18 202:14 responsibilities 25:14 26:15 responsibility 2:25 34:2 98:10,13 135:17 responsible 84:7 190:3 responsivity 206:9 restrain 15:19 restrained 14:20 15:11 19:2,5 restraining 17:18 18:9 29:12 restraint 13:3,8,13 13:20 14:5 15:13 16:6,21 18:4,11 18:14 20:7 21:3 29:8 36:5 64:1,16 64:20 65:6 restraints 13:25,25 14:21 15:5 16:13 16:20,25 18:16,24 21:11 29:20,25 81:20 Restricting 180:22 restriction 70:12 restrictive 180:19 result 16:6 64:13 66:16 67:2 69:10 91:11</p>	<p>resulting 122:23 resume 210:15 retrospective 187:14 return 55:1 102:1 120:13 176:1 review 17:21,22,24 48:23,24 66:22,24 67:9 68:3 91:11 104:13 111:20,21 111:22 151:11,13 203:9,10 reviewer 105:11 reviewing 29:17 101:19 104:19 111:24 reviews 17:14 29:16 81:21 104:25 106:5 revisited 146:16 revisiting 196:23 ridicule 3:19 right 2:22 3:7 4:23 5:5,18,19,23 6:10 6:16,17 8:8,21 19:3 22:22 24:1 25:16 26:11 32:24 36:9,10 38:2,4,16 38:17 41:16 42:8 42:11 51:9,12 56:8,11 57:8,9 59:13 61:22 63:25 64:4,10 65:6 66:17 68:4,5 70:3 79:6 84:10 86:9 96:17 101:10 103:23 104:24 109:5 117:2 122:5 122:19 123:14 124:11 126:3,8 127:5,15 129:4,14 130:1 131:6 134:21 136:11,20 137:4,5 142:1 144:12 146:1,10</p>
---	---	--	--	---

146:13 148:22 156:15 161:5,11 161:12,15 162:3,4 167:3,20,21 171:23 173:5 174:14 175:6 176:19 179:19 182:10 185:6 193:2 203:8,9 204:2 right-hand 165:15 168:21 rightly 186:16 187:8 rights 184:7 rigorous 14:10 88:13,21 rigorously 82:17 ring 48:7 rings 108:20 rise 75:18 risk 37:8 39:7 41:8 41:18 42:18 44:8 44:11 46:9 47:25 48:5,11,13,17 49:19 50:2 60:10 64:18 66:4 90:21 117:13,13 201:21 202:5,25 205:20 risks 6:18 203:2 206:25 road 8:13 Rob 35:13 Robinson 154:22 role 22:14 23:5,17 24:16 25:16 27:19 27:21,23 30:18 33:7 84:1 88:11 143:5,7,8 180:14 room 24:7 42:5,12 43:8,11,19,21 44:24 45:24 46:5 73:13 83:4 rooms 43:14 44:23 45:9 46:6 52:9,11	Rose 130:15 135:18 135:20 136:9 route 90:25 routinely 194:25 RS 46:20 RS-A6 2:11 RS-C1 4:18 5:3 9:2 9:13 36:6 37:22 38:1,11 39:7,10 39:11,25 40:6,17 41:12 42:8,14 43:4,10,18,21 44:3,14 46:19 47:3,7,10,13,17 47:24 48:17 49:3 50:3,15 51:14 52:16,18 53:8,22 55:13,21,25 56:25 60:10 61:9 62:14 69:10 70:14 72:8 73:7,12 74:7 75:1 75:4,20 78:6,10 83:18 84:7,20,25 86:7 89:8 91:5 96:22 100:3 101:9 103:4,9 105:6 106:8 107:8 108:20 110:10 111:16 112:16 114:9,15 115:14 115:20 116:17 117:20 118:10 121:23 141:9 147:8 RS-C1's 38:24 42:12 43:8 46:9 69:6 71:1,9 77:23 89:25 98:1 99:6 100:16 104:24 106:18 109:14 110:25 116:6 RS-C2 12:25 14:19 19:4 21:6,20 43:4 43:8 45:17 46:25 47:8,10,14,18	50:5 51:5 53:24 54:5 55:14,22 56:18,22 61:16 62:18 63:10 RS-C2's 62:9 RS-C22's 15:4 RS-C3 43:3,4,5 54:5 55:15,22 61:16 RS-C4 43:19,23 53:23 55:21 61:16 RS-C5 43:9 44:3 61:17 RS-C5's 43:10 rule 70:12 93:7 172:18 ruled 92:5,6,20 rules 124:22 128:7 170:1 185:3 198:12 run 49:24,24 67:18 67:19 72:11,13 78:16 88:9 104:1 104:12 198:20 running 50:15 63:22 64:5 67:21 195:10 <hr/> S <hr/> sad 73:13 Sadly 113:23 safe 8:15 11:11 15:2 31:13 32:16 32:22 40:20 41:25 42:1 62:16 safeguard 65:10 safeguarding 22:10 23:17,19 24:9,18 25:10,14 26:21 27:1,10 31:9 32:19 33:6 34:19 35:4,7 61:3 76:11 76:19 81:21 95:15 96:9 122:4,10,15 137:21 157:22	196:5 safely 186:15 safety 40:21 salience 174:22 sample 176:25 sat 15:22,23 saw 56:17 66:2 181:13 188:17 saying 16:1 34:6,16 40:9 48:8 53:8 96:11 97:4 112:22 149:20 205:17 says 3:3 13:16 32:25 33:12 38:6 42:25 43:12,18 45:18 51:14 57:23 60:11 64:14 92:14 95:13 97:15 100:1 101:8 108:20,24 109:2,4,16 116:21 126:16,20 138:18 140:25 141:20 144:14 147:2 151:10 195:15,25 scant 192:19 scenario 59:1 60:4 62:20 scenarios 60:2 scene 171:5 schedule 36:18 148:8 school 3:5,22 6:25 7:23,23,25 9:18 9:19 11:7,16,19 17:22 21:22 22:8 23:13,15 28:16,20 30:7 33:1,25 34:15 35:4 37:13 47:1,1,3 48:4 50:15,19 51:14 52:25 53:17 54:2 54:12 55:14,21 58:5,7 60:18 65:11,15,17 66:6 66:11 68:10,11	84:7 90:7,9 91:10 91:11,13 93:5,19 97:4,16 109:12 162:10 164:9 185:21,21,22 193:4 194:1,7,8 194:24 195:17 196:11 204:6,13 204:17 208:22,23 school's 64:25 school-type 7:9 schools 6:23 7:20 8:3 10:6 21:22 22:18 27:7 68:7 69:5 80:2 164:3,8 175:14 186:2 192:22,22 194:4,9 194:12,14 200:9 200:10 205:7 206:13 208:14 SCOLDING 159:21 160:2,3 175:24 176:2,8 210:7,12 211:17 scope 179:20 scratch 9:8 screen 1:16 55:10 71:18 74:2 83:12 121:6,8 125:13 136:18 160:24 161:1 scripts 170:21 171:19 scrutinise 22:9 29:7 81:25 scrutinised 180:5 scrutiny 23:10 29:13,14,24 82:9 87:20 96:20,21 118:19 177:16 seated 15:21 second 90:18 121:13 149:2,17 153:17 170:20 180:7 205:2
--	---	---	---	---

<p>secondary 3:4</p> <p>secondly 1:17 24:12 71:3 83:13 156:19 204:9 205:10</p> <p>Secretary 115:3</p> <p>section 96:7,12,15 98:8,15 101:7 125:14,20 129:24 149:12,24 150:11 151:14</p> <p>sections 124:23</p> <p>sector 207:12 208:23</p> <p>secure 72:8,19 100:23 114:14 115:1,2,5,11 118:2,3</p> <p>securely 74:11</p> <p>Sed 150:10</p> <p>see 12:1 14:19 16:16 19:8,14 20:16 21:4 28:6 28:13 29:15,18 34:16,20 38:1 39:5,9,9,22 41:10 42:2 43:5,17 46:19 48:2,23 51:16 53:19,21,24 54:4,12 55:9,19 59:20 60:9,14 62:2 64:25 71:22 73:23 74:19 81:11 87:13 92:6,17 94:17 101:6 106:5 111:5 119:21 129:24 133:22 134:7 138:7 148:3 158:12 159:16 167:18 184:6 185:23 190:2,4 191:12 192:14 194:16,19,25 199:7,8 204:8</p> <p>seeing 82:11 93:13</p>	<p>135:25</p> <p>seek 115:3,5,10</p> <p>seeking 50:20 119:18</p> <p>seen 34:25 49:16 51:21 61:20 74:6 77:13 84:16 87:18 87:21 90:1 92:8 94:9,13,18 95:8 95:11 99:21,23 104:11,14 105:8 108:13,18 131:8 131:23 133:24 136:17 148:6 165:22 167:25 179:3 184:3 199:1 201:7,19</p> <p>sees 190:2</p> <p>segregation 184:13 184:22</p> <p>selected 22:16</p> <p>self-blame 203:16</p> <p>self-esteem 10:23 191:23</p> <p>self-evident 198:11</p> <p>self-expression 179:22</p> <p>SEN 24:13 25:1 30:8</p> <p>send 22:21 105:22</p> <p>sending 186:4</p> <p>senior 24:20 25:20 25:22 26:24 27:5 29:24 33:5 58:13 81:24,25 115:10</p> <p>sense 51:19 57:3 65:13 171:1,8 178:7 191:22,25 192:4 198:16 199:4,6,9 201:25</p> <p>senses 175:20</p> <p>sensible 54:24 120:12</p> <p>sent 17:13 31:12 86:3 97:3 131:17</p>	<p>sentence 180:21</p> <p>separate 90:8 142:4 169:1 209:12</p> <p>separately 54:10 56:14</p> <p>September 42:7 48:18 50:14 51:1 51:1,1,22 74:12 121:14</p> <p>series 21:18 36:22 47:21 56:19 140:14 188:21</p> <p>serious 38:11 64:18 66:4 68:1 89:24 90:25 100:3 202:8</p> <p>seriously 77:19</p> <p>served 127:23</p> <p>serves 180:24</p> <p>service 57:24 63:6 84:2,4,5,9 85:7 88:11 104:10 124:18 126:18 127:2 131:17 132:13 151:23 152:17 155:23 208:9</p> <p>services 13:7 15:10 57:10 59:9 85:14 89:5 90:14 109:8 116:13 118:14 128:1,1 135:16 136:12 146:5 155:22 161:10 165:4 176:17,22 177:6</p> <p>session 32:14</p> <p>set 3:8,9,22 11:5 34:14 52:2 72:16 126:18 133:24 138:11 146:7 149:9,11 150:11 160:7 170:4 185:19 205:3 209:15</p> <p>sets 65:18 124:22</p>	<p>128:2 139:14 140:5</p> <p>setting 34:19 79:24 92:24 128:6 162:10 171:5 192:21 194:6 204:6,13</p> <p>settings 192:17 193:6,23 194:1 198:4</p> <p>setup 33:10</p> <p>seven 6:7 21:3 93:24</p> <p>severe 3:13</p> <p>sex 79:15,25 80:6 80:11 90:25 107:11 171:6 174:22 175:5,8 180:11,14,17,19 180:22 183:22 185:25 208:11,12 208:21 209:1</p> <p>sexism 198:25</p> <p>sexist 198:24</p> <p>sexting 185:24 186:10,11</p> <p>sexual 2:14,14 5:15 6:9,15,19 40:8 47:3,22 60:12,17 71:5 72:14 75:9 77:18 89:14 90:23 94:4,5 96:24 123:1 148:10 161:8,14 162:5,19 162:24 163:2,5,9 163:19 164:2,7,12 164:18,21,23 165:2,2,11,13,14 165:19,24 166:23 167:1,4,4,13,14 167:25 168:4 169:11,14,16,25 170:13,20 171:1,7 171:10,17,19,25 173:10 174:3,9</p>	<p>175:5 176:22 178:16,17 179:4,6 179:21,21 180:4,4 180:13,19,23,25 181:16,23 182:3,7 182:9,20,22 183:10,11,24 184:6,7,23 185:4 186:4,22 187:7,18 187:20 188:20 189:9 190:21 191:2,11,13,14 193:13,17,22 194:5,18 195:8,13 196:10,24 197:4 198:3,22 199:6,20 200:21 201:8,10 202:18 204:1,22 206:25 207:5,20 208:3,4,7 209:2</p> <p>sexualisation 170:25 172:1,2 174:6</p> <p>sexualise 172:23</p> <p>sexualised 4:25 7:6 7:7 37:17 38:3,10 38:24 39:1,3 40:10 41:15 42:19 43:13 44:16 46:4 56:19 60:10 81:15 89:25 90:4 93:10 95:23 97:5,8 99:6 100:3 171:21 175:2,3 197:10 199:15,24</p> <p>sexuality 167:25 174:22 184:8 199:16,25 200:2 209:1</p> <p>sexually 4:25 36:24 37:6,13 40:1,7 54:15 72:20,24 75:8,22 90:10,11 130:5 138:19 162:3,8,11 169:6</p>
--	---	--	---	--

172:11 173:1,22 174:13 176:11 177:7,25,25 178:21 192:20 194:7,10,24 195:4 198:9 199:2,12 205:8 209:9,10 shame 203:15 shape 169:19 share 46:6 82:8 135:4 157:20,25 shared 37:4 46:7 99:8,13 sharing 46:5 135:9 156:22 157:24 207:25 209:24,24 Sharpling 156:8,10 156:19 157:1 158:2,14,18,21 159:6,16 sheer 16:4 sheet 73:14 shining 82:12 shocking 70:17 shoes 30:20 short 55:5 105:2,2 120:15 130:8 137:24 176:6 207:18 shoulder 15:1 show 76:21 104:1 137:8 165:13 showed 64:23 shown 38:11 100:4 shows 64:23 94:25 203:18 shut 103:1 sick 67:16 side 27:6 80:6 165:15 168:21 Siegert 170:10 sign 2:4 83:22 signalling 98:23 signature 2:3 83:21 signed 32:1 121:12	significant 86:23 91:25 110:23 137:3,6 151:17 163:16 168:13 170:12 171:4 176:15 181:14 185:18 187:5 193:7 195:18 203:24 204:21 significantly 164:8 179:9 184:15 silent 135:10 similar 7:2 196:8 196:15 209:20 Similarly 136:25 Simon 159:22 160:1 211:15 simple 156:10 169:14 simply 9:1 10:1 42:22 126:7 177:8 184:19 single 14:16 34:17 153:1 190:18 sit 31:25 52:3 site 30:11 55:14 65:14 66:3,12 67:2,10 sites 176:21 situation 40:14 63:7 139:23 163:13 199:13 situations 113:24 171:18 205:24 207:16,21 six 49:25 93:24 108:8 six-monthly 29:16 skilled 10:20 65:1 124:10 skills 91:24 119:10 137:2 170:12,15 207:1,14 Slater 21:19 slightly 90:8 120:3	200:4 small 16:15 116:20 193:19 200:12,13 smaller 142:22 social 9:20 13:7 15:10 17:14 18:25 19:1 24:20 25:20 25:22 26:24 27:6 29:15,18,22 51:8 52:15 53:7,8 57:10 59:9 71:9 76:9,12 84:14 85:9 92:8 94:18 94:19,23 95:1 99:1,15 100:18 101:8,9,13,24 103:10,17 106:13 106:18 107:13 109:8,14 111:7,17 111:23 112:9,20 113:3 115:22 116:6 128:1,9 130:14 134:22 135:16,17 136:2 136:10,12,14 139:4 170:11,14 178:25 179:2,5,9 182:20,22 183:9 185:8 188:17 191:22,24 202:4 210:2 socialise 6:23 socially 166:4,7,8 166:21 society 190:4 sociosexual 183:20 sole 33:1 solicitors 21:20 somebody 14:13 19:24 45:4,6 58:24 81:10 138:3 141:15 158:12,14 194:2 203:21 somewhat 174:12 soon 59:2	sooner 48:10 50:9 67:23 sophisticated 159:12 sophistication 178:8 sorry 2:13 17:1 26:5,13 32:24 35:3 37:23 53:20 70:15,15 75:13 92:20 102:7,10 109:14 116:16 135:24 147:16 178:10 197:1 199:7 sort 2:20 21:1 22:21 28:9 30:13 32:3 38:18 47:13 59:23 74:21 78:18 86:1 87:16 88:15 94:10 101:19 102:8,11,24 104:6 104:23 115:7 125:9 148:12 156:20 164:2 169:3 179:17 185:3,20 196:20 199:13 200:16 201:14 206:11 207:9 sorts 171:13,18 186:2 192:13,14 194:18 sought 106:14 sound 24:8 46:2 64:24 sounds 181:1 source 117:6 201:1 South 146:5 span 130:9 141:11 141:12,21,22 164:25 speak 94:23 131:6 133:2 138:2,14 142:20 155:3,13	173:4 178:2 190:5 203:21 speaks 156:14 special 4:2 22:18 23:9 88:4 124:7 125:8,9,17,21 127:2 136:25 137:9 141:22 142:1 143:4 145:14 162:12 192:22 193:4 194:1,4,6,6,14 196:10 200:9,10 208:22,23 specialised 119:4 specialist 24:13 25:1 91:14 92:24 105:14 124:8 161:10 specialists 63:1 specially 127:9 specific 47:6 121:25 143:21 144:5,6 150:1 157:8 168:25 183:19 192:19 193:3 208:16 specifically 62:13 141:16 Spectrum 182:18 183:6 185:13,24 speculative 173:24 speech 119:13 spelt 105:11 spent 119:22 split 24:24 spoke 41:1,2 52:17 115:25 123:17 130:14 133:2 141:9 spoken 57:24 94:19 95:1 99:14 101:24 103:6,6,8 109:17 123:13 130:15 139:7,8
--	---	--	---	--

<p>spontaneity 89:3,4 spontaneous 87:5,7 spontaneously 203:19 sporadically 42:10 84:19 spot 178:1 spring 48:12 Springfield 130:15 squarely 169:24 squashing 168:12 stability 117:23,24 118:13 188:7 189:1,13 190:1 stable 189:9 staff 13:21 14:2,16 15:11 17:2,16 19:17,19 20:16,19 29:4 30:1 31:18 37:25 38:7,14 39:10,19 40:5,6,9 42:3,13 45:2 49:5 53:6 56:1,3,4,10 57:13 58:13,14,21 59:19,20 61:15 64:23 65:8 80:25 100:2 111:8 113:5 119:11 155:24 200:12 206:9 207:4,13,17,21 staffing 120:7 206:4 stage 150:22 151:13 171:22 175:4,7 standard 131:20 standardised 162:2 standards 14:14 68:24,24,25 standing 30:20 stands 5:8 start 1:12 2:16 10:15 11:8 31:12 84:1 86:14 120:23 145:6 168:22</p>	<p>175:13,14 started 17:20 40:6 46:11 50:25 84:14 84:22 85:22 state 31:12 47:9 115:3 189:11,18 195:19 stated 130:15 136:19 statement 1:25 2:3 2:5 3:3 4:11 5:3 6:7 7:18 8:9 13:9 14:19 16:5 20:12 22:2,4 31:10 32:7 40:3 41:10 43:19 47:12,20 51:25 55:9,19 56:25 63:19 78:9 79:3 81:13 83:19,22 86:15 114:10 120:25 121:5 124:17 125:6 126:14 128:25 133:23 136:25 137:8 141:17 144:14 145:14 146:22 153:14,17 182:16 194:22 196:17 statements 121:5,9 121:12 123:16 states 172:9 station 70:4,18 113:1,7,9 stature 47:18 status 35:4 stay 118:22 158:24 step 105:1 197:7 steps 33:4 111:15 sticky 107:12 stigmatise 202:2 stomach 67:16 stop 1:17,17 4:10 15:24 16:20 58:24 72:15 83:13,13</p>	<p>121:2 142:14 stopped 78:25 stopping 168:12 storm 175:21 story 118:10,15 202:23 straight 108:9 112:25 154:6 straightforward 120:4 strands 208:9 strategies 49:20 strategy 76:15 77:2 77:5,9 94:10,12 94:14,16,21 95:3 96:6,12,15 97:16 97:20,22 98:7,14 102:8,16,16 106:12,13 107:21 107:22,22 108:2,6 108:9,11 110:8 137:11,11,14,19 137:19 138:6,8 stream 169:3 strict 87:17 striking 195:4 stripping 195:9 196:5 strong 36:23 stronger 57:4 strongly 66:1 90:15 108:6 182:16 183:9 structure 34:15 struggle 114:2 struggling 153:18 stuck 189:18 studies 161:9 174:10,11 193:19 193:20 197:25 198:1,23 203:10 study 163:1 176:20 181:13 188:2 189:7,16 193:11 199:22 200:3,8</p>	<p>stuff 107:12 stupid 209:25 subject 6:15 16:20 68:23 149:9 173:19 177:15,17 186:25 subjected 5:15 6:9 6:19 187:7 subjecting 201:24 submitted 21:19 subsequent 142:12 171:10 subsequently 46:1 95:11 116:22 130:13 132:19 substantive 138:16 144:24 success 12:13 successful 4:12 11:22 122:23 suck 3:20 sudden 51:2 suddenly 85:2 175:19 suffered 3:15 sufficient 33:7 65:5 88:7 140:9 207:4 sufficiently 26:21 99:7 suggest 95:4 193:21 198:1 204:20 205:24 suggesting 166:24 189:3 suggestion 131:24 suggests 100:22 105:10 148:1 suitable 119:4 130:8,16 134:23 138:4 summarise 88:20 114:14 128:22 summarised 203:12 summary 64:23</p>	<p>131:23,25 summer 50:24 Summers 130:25 132:2 superintendent 120:18 122:3,9 156:6 superior 35:24 supervised 90:22 179:23 supervises 23:9,11 supervision 42:13 supervisor 22:13 22:13 24:18 25:1 25:19,25 supervisors 22:15 27:25 support 12:15,18 40:22 61:16 62:3 62:11 63:8 77:22 89:6 126:19 141:1 142:11 144:11 145:8 152:21 169:25 182:16 189:6 198:19,19 200:6,23 202:1 206:1,11 supported 198:13 198:17 supporting 62:23 87:2 123:24 148:16 168:10 201:23 208:9 supportive 62:6 73:15 172:18 188:8 189:10 supports 102:25 119:11 120:8 189:20 206:24 suppose 9:23 30:22 30:23 67:22 115:15,18 209:8 supposed 143:19 supremely 88:5 sure 9:16 11:22</p>
---	--	---	---	--

12:16 18:12 20:24 25:17,18 28:2 31:21,22,25 32:15 33:23 49:5 52:8 52:10,11,25 70:7 88:8 110:23 144:11 189:13 206:3 207:14 210:15 surprise 15:15 surprised 40:12 surprising 47:2 surrounding 154:15 surroundings 10:14 suspect 69:21 113:12 131:16 132:24 134:20 145:15 158:4 171:16 suspected 6:8 139:9 suspending 69:6 SW 136:3 sworn 83:5 120:20 211:3,9 sync 166:15 system 34:14 80:19 80:23 81:3 123:25 143:15 153:23 157:9,13 158:8 162:24 188:21 189:22 207:25 208:2 systematic 203:9 systems 87:17 88:9 103:22 133:11 157:13 158:1 208:1	159:23 160:6 tabs 121:9 tailoring 80:12 tainted 160:13 take 1:18 7:14 8:15 11:23 13:20 31:6 37:2 51:15 56:14 57:7 60:25 70:9 97:23 98:8,12 104:18 111:16 119:17,20 124:17 125:3 135:12 137:14,20 138:9 142:17 144:9 146:19,24 150:6 153:16 154:14 155:17 171:2 194:22 196:1 207:8 taken 28:18 33:4 36:6,20 38:19 47:23 52:7 70:18 78:2,8 89:15 101:2 106:10,11 110:3 111:15 123:16 129:7 142:25 144:17 145:24 146:1 147:24 152:5,8,9 152:9 takes 105:3 135:15 162:9 199:14 talk 5:3 12:4 16:21 22:15 24:18 30:10 30:13 42:4 46:8 63:9 66:9 70:25 71:3 86:15 87:2 106:8 117:22 128:5 138:23,25 139:1 176:3 178:24 191:3 talked 62:5 168:17 183:7 185:16 195:16 208:11 talking 1:20 24:16	75:10,17 83:15 89:10 91:1 97:10 98:17 113:17 116:12 121:18,22 136:5,16 143:15 164:11 167:7 168:9 171:12,13 175:17 176:9 188:16 191:19 196:18 200:17 204:11 206:7 talks 23:13 38:21 38:25 42:7 54:16 96:23 170:10 198:23 206:25 target 41:15 targets 41:14 205:13 task 168:10 197:23 209:6 taught 15:2 173:8 teach 206:18 teacher 18:7,17 22:13 23:10,11 24:17 29:3 35:8 35:11,13 52:2 194:23 teaching 52:3 team 10:20 33:5 55:21 61:3 84:3 84:10,23,25 85:8 85:9,9 91:17 92:9 95:15 99:18 105:22 106:14 113:4 196:5 teams 85:10 teaser 209:15 technically 26:11 26:13 techniques 13:23 125:4 150:6 teenagers 3:13,19 174:23 197:7 teens 196:25 197:2 telephone 77:11	87:8 94:14 95:14 108:14 193:12 tell 8:10 10:10 25:22 31:4 58:23 58:24 62:15 68:7 84:13 88:10 93:25 111:4 123:22 162:14 164:1,16 169:5 177:9 182:23 190:10 194:3 198:6 201:13 telling 40:6 101:16 111:8 150:25 tells 96:22 template 105:25 ten 6:8 20:14 50:14 176:20 tend 21:12 tendency 165:23 184:4 201:10 tends 200:14 tension 186:2 tentative 163:22 183:5 term 17:24 161:23 164:23,24 165:3 172:4 190:7,12,13 190:16 194:11 terminology 164:22 166:25 terms 6:22 7:16 14:5 17:1,25 18:1 18:1 20:8 27:6,10 29:25 48:19 58:11 66:2 98:16 118:16 121:24 123:22,23 124:8,11 125:8 127:7 128:14 132:23 133:5 141:22 142:1 145:13 147:17 152:15,21 154:8 154:10 155:6 159:12 164:1,19	170:5 174:1 178:2 178:8 180:24 184:20 188:24,25 196:9 199:19 200:17,23 206:13 208:9 test 1:13 83:9 121:1 141:13 150:11 151:8 160:17 tested 206:12 testimony 12:21 155:2,8 text 51:11 97:3 141:7 thank 1:6,11 2:16 12:19 41:7 55:3 57:21 70:13 72:12 82:21,24 118:21 120:9,9,9,22 147:2 149:1 156:10 159:16,17 159:19 160:3 162:7 176:4 210:7 210:10,12 theoretical 173:14 173:24 theory 14:10 therapeutic 24:6 72:16 73:16 74:18 74:21,24 114:16 116:23 117:4,6,11 therapist 73:19 therapists 12:1,2,7 119:13 therapy 11:25 12:6 21:15 22:19 24:3 24:4,7 42:7,8 61:18,19,21 62:2 73:17 115:19,20 115:25 116:7,11 117:2 118:5 they'd 20:23 189:18 thick 189:19 thin 189:19
T				
tab 2:1 49:14 71:20 71:20,24 83:20 121:11 124:19 134:5 146:4				

<p>thing 5:8 10:12 15:6,19 19:9 22:10 52:21 70:17 77:1 80:4 81:8 88:2 107:16 167:23 186:1 192:18</p> <p>things 1:12 3:18,21 4:5,8,9,15 5:5 9:10 10:16 11:12 12:21 23:14 31:4 42:16 45:1,10 53:12 59:15 61:22 65:17 67:6 69:12 76:8 78:25 79:5 80:6 83:7 88:24 90:8 98:10 103:2 105:20 107:15 111:25 112:4 118:10,18 120:23 137:25 142:17 175:23 183:11 185:25 188:4,7,14 188:15 197:6 199:12 203:20,24 205:21 208:19</p> <p>think 1:21 2:17 4:18 6:12,21 7:8 7:17 8:20,22 9:10 9:17,20 11:24 12:19,23 13:2 14:20,22 15:8 16:1,4,16 18:4 19:11,12 20:10 21:2,6 22:2,8,8 23:7,22 26:23 27:12,15,17 28:4 28:11 29:11,14,24 30:17 31:9 32:7 34:1,4,9,12,25 36:1,2 37:8,12,16 38:2 39:13,14,20 39:21 40:2,3,16 40:17,19 42:14 43:1,12,18 44:5</p>	<p>44:11,12,14 45:3 45:3,6,15,18 46:4 46:11,14,24,25,25 47:3,5,12,13,17 48:11,14 50:6,7 50:16,17,20 51:9 53:13 54:9,11,20 55:12,16,23 56:17 56:25 57:13 59:1 59:2,6,14 61:2,4 61:14 62:15,17,22 62:25 63:2,7,13 63:18 65:22,25 66:21 67:2,6,15 67:24 68:2 69:7 69:24 70:3,6,7,23 71:8,13 72:7,11 72:11,12,14 73:1 73:7,11,17 74:10 75:3,5,6,11 76:2 76:10,21,21,22 77:11 78:6,9,13 78:15,18,19,20,23 79:3,4,7,9 81:4 82:10,15,17 83:3 84:9,24 85:2,4,25 86:19 87:20 89:14 90:11,15 92:12,12 93:4 94:13 95:8 96:5,6,8,19 98:9 98:24 100:18 101:9 103:11 105:6,21 106:10 106:19 108:8,13 108:24 109:4 110:10,17 111:11 111:16,19,21,22 112:9 113:22 114:1,5,20,22 115:4,5,8,21 116:4,4,16 117:22 118:3,12,18 119:6 120:3 122:19 123:9 126:5 127:11 128:24</p>	<p>129:14 131:8 132:7,11 134:7 136:3,4,17 137:6 142:3,14,16 146:3 146:8,13 153:16 153:18 154:4,14 154:18,19,20 155:9,11 156:3,10 156:14,15,15,15 157:12,17 160:23 163:10,14 165:9 166:21 167:4,10 167:21 168:1 169:10 172:15 173:25,25 174:11 174:24 177:11,18 177:23,23 178:3 179:10 180:12 181:5,18 182:4 183:3,6,9 184:2 184:10 185:10,16 186:10,15 187:5 187:21,25 188:16 189:6,16 190:4 192:18,25 193:10 193:19 195:16 196:7,15,18,23 197:8,22 198:11 198:18 200:7,19 201:16 202:20 203:18 204:20 205:12,20,21 207:8,12,17,23 208:19,24 209:6 209:16 210:3</p> <p>thinking 9:1 10:10 23:15 24:1,17 54:13 70:5 82:3 91:4 99:2 106:1 172:17,24 174:2 175:8,15 189:23 202:15 204:3,5 206:10</p> <p>thinks 130:16 third 15:23 141:7</p>	<p>158:22 159:4 181:2</p> <p>Thirdly 121:4 thorough 49:19 87:16 thoroughly 151:16 thought 41:22,24 53:11 59:22 61:25 70:20 72:21 88:2 110:15 134:23 163:18</p> <p>thoughts 177:11 thread 150:17 threatening 90:24 threats 173:7 three 7:20 8:5 10:4 15:10 32:10,12 44:5 48:24 61:22 68:8 69:5 89:22 135:5,6</p> <p>three-and-a-half... 103:14</p> <p>three-person 15:19 threshold 16:14 80:24 thrown 58:8 thumb 3:20 time 2:16 3:10 13:11 14:24 16:19 16:24 18:2,3 20:11 36:8 37:11 37:17 39:12,24 40:21 41:22 45:14 45:15 46:5,10 47:16 54:14,23 56:18 57:19,23 59:5 61:11 70:6,7 70:20 72:8 77:21 85:13,25 91:17 92:3,8 93:1 94:10 95:16 96:8,8 99:21 100:8,11,16 101:9 102:25 103:19 105:20 108:22 112:14</p>	<p>113:21 114:1 116:12,17 117:11 121:1,2,19 123:13 124:2 130:10 134:1,12,14 135:7 135:21 137:7,15 139:8 140:22 142:17,23 145:11 148:2,13 157:6 160:19 161:22 163:8 164:20 166:23 174:13,25 175:13,24 189:21 202:17</p> <p>timeframe 38:18 times 16:2 19:20 21:16 45:18,20 103:3 119:20 146:19 194:19</p> <p>timescales 104:2 today 89:9 91:18 101:23 121:21 142:9 145:7 154:13 155:12 159:3 171:13 210:14</p> <p>toddler 196:3 toilet 45:7 90:11 toilets 37:14 55:25 59:3</p> <p>told 38:14 62:13 76:9 106:18 109:12 112:20 115:23 134:17 138:20 144:23</p> <p>tolerated 9:1 10:2 tomorrow 210:16 tone 34:19 top 49:2 51:18 64:13 116:21 138:24 162:21 193:16 203:6</p> <p>topic 54:24 161:7 topics 140:18 total 164:9,10</p>
---	---	---	---	--

176:25	36:23 50:11 69:13	27:7 35:19 37:25	underlines 202:11	148:14 162:18
totality 187:12	161:21	38:14 39:10,21	underlying 169:1	undertook 152:3
touch 4:13 20:4	trial 149:21 158:21	41:6 45:2,10 46:5	170:14 172:18	176:14
64:2 79:12 120:3	tried 62:5,12	52:19 53:9 56:4	174:5	unduly 154:18
162:14 194:17	206:12	56:10 57:13 65:18	underpinning	unexpected 166:21
touched 115:14	tries 191:15	68:7 90:8 111:9	119:15 192:9	unfair 65:3
138:19	trigger 40:25 78:18	114:6 118:6 121:8	underplayed 99:16	unhappiness
touching 43:18,21	102:8,14,16	134:20 139:7	underreaction	100:22
195:12 196:6	troubling 16:8	142:4 145:16	207:8	uniform 155:17
town's 200:13	166:13	149:9,13	understand 2:24	unit 52:19,20 90:14
toxic 180:23	true 2:7 52:25	two-hour 86:12,12	9:24 15:6 41:11	94:15,15 96:10
toys 3:20	83:24,25 121:16	two-month 103:13	44:22 46:6 53:4	109:18 111:6
traffic 167:17	160:8,8 196:1	two-page 71:14	57:7 58:14 64:1	116:23 122:5,11
trained 35:21	trust 52:19 80:4	two-plus-hour 87:6	64:12,20 78:1	122:12 130:4
124:10 127:9	111:6,9	two-thirds 194:11	81:25 84:2 124:25	133:14,15
143:9 155:12	trusted 53:9 204:4	type 19:6 22:10	132:1,19,22	University 161:4
trainer 32:9	204:7,11,18	71:9,15 76:25	138:22 140:4	unpleasant 15:6
training 12:11,18	205:22,25	77:6 102:21	142:6 149:15	19:9
14:5,7,9,11 17:2,5	truth 150:25	105:14 110:3	150:2,12 154:19	unproblematic
17:9 20:17,18,20	try 1:21 9:12 11:21	163:17 190:19	155:24,25 156:1	197:2
20:23 31:9 32:5,8	14:25 16:19,21	192:10	158:19 160:12	unreliable 79:8
32:11,14 58:16	18:4 21:16 40:20	typed 57:8 103:25	164:15 166:20	unremarked 186:5
59:22,23,25 60:1	50:19 79:9 88:14	types 80:23 91:20	174:21 182:19	unsettled 117:9
64:24 143:23	88:20 91:22	164:21 165:21	183:10 185:2,13	unsure 50:11
144:2 154:18	113:25 114:16	178:4 184:23	187:9,22 209:4	unsurprising 173:8
155:24 207:4,10	119:14 124:13	190:17,20 191:17	understanding	unused 159:1
207:11,17 208:10	155:17 165:19	192:5 194:24	30:16 33:3 60:1	unusual 118:15
208:18	194:14 197:15	195:4 209:20	64:8,24 67:13	166:21
transcripts 56:22	205:7,9,10 206:8	typical 207:5	69:18 87:22 89:17	update 32:5 48:22
transfer 103:4	trying 6:22 19:11	typically 6:7 22:8	91:6 105:7 111:17	68:7 72:4 157:9
transferred 84:25	19:13 23:15 41:5	102:21 208:3	112:25 113:11	updated 31:17
transition 11:19	41:19 52:10 116:6		139:23 144:17	32:17
transitions 189:20	169:5,10 191:7	U	151:6 154:15	updates 14:15
trauma 3:14 12:3,7	197:12 206:3,23	UK 163:15 176:21	164:17 167:7	uploaded 158:8
21:14 171:1,1,15	209:1	ultimate 167:2	171:5 180:19	upper 168:16
174:5 181:9,16	Tuesday 1:1	ultimately 143:9	181:8 186:14	196:21
182:2,7 187:8	turn 1:25 4:20	umbrella 164:24	187:11 203:13	upshot 92:21
192:9,11 195:18	83:19 105:4 203:3	unable 13:17	207:15	urgently 65:12
197:11 208:25	turned 4:18 36:11	149:15	understood 20:25	URN 72:2,3
traumatic 172:1	55:15 105:6	uncertainty 110:22	32:1 149:17	use 1:21 12:2 13:12
traumatised 4:12	turning 94:1	110:23	150:13	32:9 49:7 63:3,5
12:15 79:8,11	twice 69:2	under-response	undertake 98:20	64:1 65:6 121:20
treat 30:17 156:2	two 2:24 5:10 7:20	202:7	undertaken 104:8	124:7 125:23
treated 98:4	8:3 11:5 14:10,11	underestimated	104:9 126:11	134:6 143:1
treatment 1:8 10:5	18:19 21:22 25:1	151:21	144:16 146:13,24	153:22 166:22

168:2 169:9 200:20 useful 164:12 174:1 201:1 usual 9:2 107:20 usually 75:17,19	155:8 187:20 video 60:16 123:4 125:11,16 126:8 130:16 134:23 144:16 152:20 153:2 154:1 video-record 152:2 video-recorded 127:7 131:13 135:1 videolink 125:17 view 7:1,4 9:5 41:4 60:12 61:8 79:1 93:1 98:25,25 101:13 109:21 110:16 117:5 160:14 201:10 viewed 167:14 177:22 views 34:13 74:13 81:2 82:14 117:21 186:9 209:13 Vigilance 42:6 violation 172:19 violence 15:15,16 89:13 147:25 173:6 181:25 190:22 violent 15:14,18 16:3,23,24 19:11 19:13 21:13,15 165:2 168:21 209:19 virtue 151:14 visible 177:14 visit 22:19 39:10 73:12 87:4,11 99:22 visited 73:7 87:18 87:23 88:10,11 103:9 104:2,3 108:22 visiting 87:5 88:21 104:11 visits 87:15,19 88:7	88:7 101:18 104:8 VIVID 129:4 133:5 133:18 134:15,18 135:9,13 146:24 vocalising 52:18 voice 63:8 155:10 155:25 voices 198:14 204:19 vulnerabilities 186:8 vulnerability 141:1 155:25 180:18 186:16 vulnerable 72:23 72:24 88:5 123:24 124:13 125:22 126:15,17,19 129:3 141:5 181:3 187:17	wants 138:23 Ward 170:10 wasn't 44:3 47:2,9 47:25 50:15,15,20 51:3,6 52:8,11 57:16 58:18 59:6 60:23 61:4,10 62:7 73:19 76:6 77:4 87:19,23 93:1,2 94:22 95:20 96:5 98:1 100:10 102:4,5 105:10 106:12,13 106:25 107:2 108:25 113:7 114:18,23 115:1,8 117:1,9,10 118:9 123:11 137:11 145:10,20 148:6 watched 2:10 watching 66:9 67:17 Watkins 146:8,14 147:1,2 way 1:22 4:10,16 8:17 15:2,17 19:16 20:25 43:18 48:5 54:16 58:6 59:14,23 79:9 98:4 108:3 125:16 126:8 154:3 156:3 156:3 165:6 168:5 169:12,24 177:21 179:11 185:14 186:15 188:6,22 197:7 198:20 206:2 ways 15:17 16:23 172:11 194:10 we're 6:22 25:18 154:20 we've 114:7 website 28:1,6 149:4 Wednesday 210:19	week 77:2,17 79:13 120:5,7 weekly 12:2 17:23 120:1 194:12 weeks 108:8 140:22 weight 151:2 weighted 156:17 welcome 1:3 welfare 68:11,12 well-being 88:18 went 4:5,14 5:4 38:2,15 39:10,21 43:8,11 45:7 47:4 60:5 73:12 74:7,9 91:15 93:11 101:17 113:6 117:3 131:6 133:2 weren't 63:16 66:10 88:6 123:9 140:8,9 142:12 158:1 189:20 West 120:19 122:4 123:23 124:1 128:23,25 129:8 129:16 130:1 133:5 134:10,14 142:18 143:21 146:3,9 153:22 156:21 157:3,19 158:4,11,14,22 whilst 132:7 161:11 wider 155:9 173:3 wigs 125:14 willing 19:19 128:5 Willow 8:7 68:13 willy 43:10 windows 9:9 wish 48:10 withdrew 83:1 159:20 witness 1:25 2:4 7:18 14:19 16:5 41:10 55:9,19 56:25 78:9 79:3 81:13 83:1 86:15
<hr/> V <hr/>		<hr/> W <hr/>		
v 150:10 vagina 196:6 Val 52:16,17,20,22 valid 142:3 154:6 value 11:2 valued 10:16 variability 164:22 varied 5:24 28:24 variety 164:19 177:6 various 15:16 99:8 157:10,25 158:1 158:24 186:22 198:25 201:2 207:3 vary 23:8 vast 5:24 104:11 187:16 veer 201:7 veering 145:4 verbalising 50:22 verbatim 129:16 versa 42:13 208:5 version 48:18 vice 42:13 208:5 victim 62:19 126:6 132:21 137:18 138:7 victim-to-abuser 187:2 victimisation 171:4 191:2 victimised 171:10 victimising 167:8 victimless 146:19 victims 123:24 129:3 143:15				

114:10 120:25 121:5,5,9,12 123:6 124:7,17,25 125:5 126:6,7,22 126:23 128:19,25 133:23 137:18 139:19,22 140:1 141:5,10,17 143:4 143:14 144:14,15 144:20 145:1 149:8,10,16,22 150:1,2,7,12,24 151:3,14,19 152:2 152:22 153:6,13 153:17,21 159:20 194:22 196:17 witness' 140:17 witness's 128:13 150:15 witness/complain... 138:14 witnessed 181:24 witnesses 123:21 123:24 124:13,23 125:10,23 126:16 126:18,19 127:8 131:14 151:8,9 152:5 women 173:1 184:15 women's 147:20,25 wonder 54:24 115:13 148:24 153:16 207:20 word 53:23 129:20 129:20 worded 66:1 90:15 words 19:17 52:23 76:6 107:10 166:22 194:13 201:21 work 4:11 8:18 12:7 13:23 21:16 22:17 24:22 25:24 40:19 44:9,11	52:2,15 67:12 74:14 80:1 82:11 85:10 101:13 111:14 117:11 167:20 183:17 189:12 207:13 worked 9:7 85:11 113:4 161:16,19 worker 9:21 17:14 24:20 25:20,23 26:24 27:6 29:18 29:22 53:7,8 71:9 76:9,12 84:15 92:8 94:18 99:1 99:15 100:18 101:8,10,24 103:10,18 106:13 106:18 107:13 109:14 111:7,17 111:23 112:10,20 115:22,25 116:6 130:14 134:23 135:17 136:10,14 139:4 188:17 206:1 worker's 51:8 113:3 workers 18:25 19:1 29:15 39:6 94:19 94:23 95:1 working 3:3 13:22 21:7 75:1 84:14 85:10,15 88:14 91:17 94:20 119:12 137:23 157:23 161:13 165:20 201:5,14 205:16 206:6,23 workplace 144:1 works 30:16 99:15 109:3 world 200:4 worried 70:7 72:23 81:17 108:20 206:20	worries 63:12 99:2 worrying 52:22 101:4 worse 75:5 worst 167:23 worth 10:16 36:1 worthwhile 10:21 wouldn't 29:4,20 29:21 51:19 87:9 104:8 105:14 118:16 133:10,11 152:25 154:5 178:12 196:4 204:16 205:14 write 76:22 writing 161:22 195:3 written 33:14 37:3 69:9 97:12 143:18 143:19 149:6 152:6 163:6 wrong 4:5,8,10,14 4:15 5:4 12:21,23 34:7,20,24 57:22 60:6 72:2 112:4 199:12 201:20 wrote 94:20 146:3	49:25 69:5 86:24 89:16 96:11 118:6 122:9 138:20 148:2 161:16,17 175:2 201:6 years' 44:5 161:13 yesterday 2:11 12:20 45:17 47:8 56:17 68:22 88:1 132:9 154:22 182:12,24 184:17 189:24 200:8 208:14 Yorkshire 120:19 122:4 123:23 124:1 128:23,25 129:8,16 130:1 133:5 134:10,14 142:18 143:21 146:3,9 153:22 156:21 157:3,19 158:4,11,14,22 young 3:14 6:14 11:7 41:16 58:3 62:1 89:10 91:19 91:22 107:19 117:25 162:23,25 163:7,20 165:5 169:6 171:6 172:16,20 173:5,9 173:19 175:7,21 176:10,13,16,22 177:4,21 178:12 180:10,15,24 181:13,14,20 183:10,12,13 184:5,8,10,15,15 184:24,25 185:8 186:12,13,17 189:5,16 190:16 199:5 202:1,2,7 202:22 203:1 206:11,24 210:6 younger 3:10,16,23 41:16,20 44:3	46:10 47:25 50:3 51:5 52:22 97:6 173:21,23 174:1,2 174:19 196:13 197:3,8,9 Youth 63:6 124:24 125:18 149:24 151:15
Z				
0				
000003 72:3				
000003_005 72:2				
002 53:20 60:8				
005 150:19				
006 73:24				
007 73:24 74:17				
007914_004 146:25				
008 167:12				
014 43:16				
015 31:11				
021 195:2				
037 53:3				
038 52:12				
048 174:15				
049 168:24				
050 173:13				
056 187:1				
060 97:12 190:9				
063 190:25				
069 192:24				
070 193:9				
071 193:16				
072 198:6				
073 199:15				
074 198:6 201:4				
083 203:4				
085 203:5,7,22 205:15				
086 205:5				
1				
1 36:18 53:21 54:20 83:20 148:8				

159:23 160:6 210:24 211:1 1.4 162:16 1.5 163:25 1.50 120:13,16 10 3:11 4:19 36:9 51:1 55:14 94:7 137:1 147:8 10-year-old 40:20 91:1,19 10.00 1:2 210:16,19 100 45:18 75:7 102 178:23 103 181:22 105 182:14 108 41:9 109 32:24 11 4:18,20 36:11 51:1 55:15 63:19 91:8 100:25 105:6 129:18 141:19 164:10 165:10 175:15 11-plus 85:11 11-year-old 101:4 11.08 55:4 11.10 178:23 11.11 180:9 11.13 181:18 11.17 182:14,15 11.18 182:13 11.19 183:18 11.25 55:2,6 110-page 160:18 113 55:8 119 211:7 11th 106:19 12 4:22 5:18 7:21 47:14 55:13 121:14 122:8 196:21 12-month 163:5 12-year-old 113:17 113:19 115:2,5 132:16	12.50 120:14 120 211:9,11 13 105:4 175:15 131 63:18 14 179:25 15 13:15 14:21 21:10 160:21 179:25 194:19 156 211:13 16 20:11,13 51:1 77:12,15 78:4 129:2 160 8:22 211:15,17 17 7:23 18 85:13 148:10 162:20 163:8 189:22 19 16:5,16 146:10 147:1 1988 84:14 1990 3:4 1990s 17:10 1995 2:18 8:20 1999 124:24 125:18 125:20 147:21,25 149:25 <hr/> 2 2 74:10 129:23 149:7 2.12 167:11 2.18 164:14 2.50 127:19 2001 126:17 2003 95:12 2004 136:19 137:1 2005 13:7 14:17 38:22,23 40:5 42:15 47:5,6,7 48:12,13 50:13 84:22 103:14 104:16 105:17 2005/2006 87:24 2006 4:14 9:14 14:19 21:9 48:18	50:14 55:8 75:25 103:15,15 106:20 107:25 111:2 123:1 138:5 142:15 2006/2007 77:5 124:2 127:5 144:2 2007 69:9 74:12,25 78:8 84:24 116:17 146:10 148:22 154:21 156:4 183:18 2008/2009 142:20 2009/2010 152:19 2013 20:5 49:25 63:22 64:19 66:14 176:14 2016 20:14 21:2 2017 84:10 2018 26:18 2019 1:1 49:25 121:13,14 210:19 22 55:20 57:6 23 57:6 24 57:11 112:10,20 114:11 242 14:21 16:4 21:10 25 7:18 19:21 51:1 161:13,16,17 163:18 26 114:11 28 87:23 103:23 125:14,20 129:24 29 69:16 112:16 131:24 29th 70:1 <hr/> 3 3 60:9 74:11 130:20 135:14 141:19 147:23 3,500/£4,000 120:5 3.05 160:20 3.10 160:20	3.11 176:5 3.25 176:1 3.27 176:7 3/4 138:20 31 51:19 52:15 53:4 33 71:20,24 72:1,3 163:18 33rd 51:12 38 176:19,24 181:13 <hr/> 4 4 74:17 140:17 147:21,23 148:2 4,000 120:7 4.16 210:17 41 7:18 42 49:10,13,14 47 96:7,15 98:8,15 107:22 47s 96:12 <hr/> 5 5 36:20 71:21,25 89:18 121:13 126:13 5-year-old 90:10,11 148:11 5.7 126:20 50 22:2 511 163:25 52-week 68:21 53 124:23 149:12 150:11 53(3) 149:24 151:14 54 124:23 58 164:9 <hr/> 6 6 5:18 124:21,21 138:24 147:5 151:10 196:20 6.13 174:8 6.15 168:23	6.19 173:12 6.21 168:23 6.28 176:15 60-mile 86:11 61 31:10 <hr/> 7 7 1:4 136:4 140:15 151:4 7.21 190:9 7.6 186:23 7.7 186:24 7/A 141:18 <hr/> 8 8 1:1 3:11 39:5 8.16 192:23 8.17 192:23 8.22 193:9 8.24 193:16 8.26 194:1 8.29 198:5 8.32 199:14 8.33 198:5 8.34 201:3 80s 26:9 83 211:3,5 84 195:1 87 195:24,25 88 194:9 <hr/> 9 9 43:4 47:14 54:4 54:22 55:8,12,14 112:12 141:6 210:19 9.11 203:4 9.14 203:4 9.17 203:6 9.18 203:4,22 205:12,14 9.21 205:3 9.22 205:3 90 6:6
---	--	--	--	--