

<p>1 Monday, 4 November 2019  2 ( 10.30 am)  3 THE CHAIR: Good morning, everyone. Welcome to Day 6 of  4 this public inquiry. Mr Saad?  5 Statement of MS SUSIE HAYWARD (read)  6 MR SAAD: Chair, the first witness will be read to you.  7 That's the statement of Susie Hayward, whose statement  8 has been placed behind tab 3 of the blue folder that you  9 have.  10 The URN for the statement is INQ001002, and will  11 also be published in full.  12 She says this:  13 "I was invited to join the NCSC at its inception in  14 2008. I served two office terms of three years each, up  15 to early 2015.  16 "As a member of the NCSC, I consistently attended  17 quarterly meetings and also took on some leadership  18 roles. For example, in relation to policy and protocol  19 matters following the Cumberlege Commission Report 2007.  20 I also worked specifically with victim/survivor groups  21 and met these groups on a frequent basis. In 2009,  22 I was given the responsibility as link person for the  23 Diocese of Westminster and Southwark and at a later date  24 for the religious community of the Salvatorians. As  25 a member of the NCSC, I was one of very few independent</p> <p style="text-align: center;">Page 1</p>	<p>1 members. That is, I was not attached to the  2 institutional church in any professional capacity such  3 as being a member of a diocesan commission.  4 "For this reason, I always felt able to express my  5 views robustly and without any conflict of interest.  6 "I felt that most members of the NCSC, including the  7 bishops, were somewhat constrained by their positions.  8 I felt there was a certain style of deference towards  9 the hierarchy.  10 "During my six years on the NCSC, there were three  11 chairs and two interim periods where the vice-chairs,  12 Bishop Declan Lang and Sister Jane Bertelsen, took the  13 reins. I felt this created difficulties of continuity.  14 Not many independent members stayed for a full term.  15 I felt that, generally speaking, there was poor  16 communication between the chairs and the members.  17 A number of us had signed up to working on specific  18 tasks in small groups, but there was a total lack of  19 cross-communication. I was also concerned that new  20 chairs were unaware of full background details. There  21 was little cross-referencing between the workings of  22 CSAS and the NCSC. I also sensed that the role of  23 the NCSC was not fully understood in the wider church.  24 "For example, there was some suspicion of the NCSC  25 by diocesan safeguarding commissions as to what its role</p> <p style="text-align: center;">Page 2</p>
<p>1 was and its trustworthiness.  2 "The first NCSC chair, Bill Kilgallon, shortly  3 before he resigned in December 2010, asked me to take  4 responsibility for working on a document on seminary  5 formation, for which I was very well equipped because of  6 substantial experience. Another NCSC member,  7 Elizabeth Hayes, joined me. Bishop Alan Hopes,  8 auxiliary bishop in the Westminster Diocese, was  9 delegate by the Bishops' Conference to work with us.  10 I was surprised that Bishop Hopes would not communicate  11 with us directly but only through Bishop Declan Lang,  12 the NCSC vice-chair.  13 "I was then surprised to hear that this task was  14 being taken away from the NCSC to be worked on in-house  15 with the seminaries. Therefore, I felt that this was an  16 example of hierarchical clericalism, not only because  17 Bishop Hopes did not acknowledge my role, nor would he  18 reply to any communication by me on behalf of the NCSC,  19 but also because he ignored Bill Kilgallon's  20 instructions and the NCSC. I was one of the readers of  21 the document on safeguarding and seminary formation.  22 There was the end product two years later. My reaction  23 was that it was focused on the technicalities of  24 safeguarding procedures but, as I recall, failed to  25 address what I considered to be of vital importance in</p> <p style="text-align: center;">Page 3</p>	<p>1 the healthy psychological and spiritual formation of  2 candidates for ordination.  3 I was one of the main NCSC liaison persons with  4 survivor groups. This was a role in which I was  5 wholeheartedly dedicated to creating an environment of  6 trust between the NCSC and the groups. I was devastated  7 that this delicate relationship failed to flourish  8 largely because of a lack of proper care of survivors by  9 the hierarchy in general and the stances they took. For  10 example, as I recall, a case concerning a victim in the  11 Portsmouth Diocese understandably led to a breakdown in  12 trust. I always sensed that correct behaviour was  13 inhibited by a fear of litigation and liability."  14 She goes on to speak about the Diocese of  15 Westminster:  16 "I became the link person between the NCSC and the  17 Safeguarding Commission of the Westminster Diocese  18 in June 2009. What I write refers to serious concerns  19 that I had with Westminster from 2010 until the end of  20 my NCSC term of office in early 2015.  21 "In June 2010, as a member of the implementation  22 group towards a culture of safeguarding, I met with  23 Carol Parry and Peter Turner, the safeguarding advisor  24 for Westminster at the Bishops' Conference HQ in  25 Eccleston Square. There was a discussion around the</p> <p style="text-align: center;">Page 4</p>

<p>1 role and title of safeguarding advisor officer.                  2 I recall asking Peter Turner how the communication was                  3 between him, the safeguarding coordinator, Monsignor                  4 Harry Turner and the diocesan commission chair.                  5 Peter Turner told me that Harry Turner would not speak                  6 to him.                  7 "This, he suggested, was because some time before --                  8 I do not know precisely when -- he, Peter Turner, had                  9 been critical of Harry Turner when he discovered that                  10 Harry Turner was going on holiday with a priest who                  11 Peter Turner considered inappropriate because                  12 Harry Turner was safeguarding coordinator.                  13 "From that moment on, as Mr Turner told me, the                  14 communication between the two had ceased. At some time                  15 later, Peter Turner told me he had no access to                  16 reporting to Archbishop Vincent Nichols. Meetings were                  17 held with the chair and Harry Turner, but he was not                  18 included. He did not even know when the meetings were                  19 held and he received no feedback. Also, he did not know                  20 how finances were allocated. I understood that the                  21 safeguarding office was under-resourced, both                  22 financially and in its staffing.                  23 "As a result of this information, I made a statement                  24 to the NCSC at its next meeting about these concerns."                  25 The statement produces a number of exhibits.</p> <p style="text-align: center;">Page 5</p>	<p>1 I shan't read them out, but they will be published.                  2 Exhibit 1 is INQ004806.                  3 She writes that she also personally informed                  4 Bill Kilgallon with full details.                  5 She says:                  6 "I asked to meet Bill Kilgallon as a matter of                  7 priority, especially as I understood that he was                  8 resigning as chair of the NCSC and I wanted to ask him                  9 to be in contact immediately with Archbishop Nichols                  10 about this serious situation. Mr Kilgallon arranged to                  11 meet me after a meeting with survivor/victim groups at                  12 the NAPAC offices at the Oval. At the end of                  13 the meeting, I saw him disappearing out of the building.                  14 As a result, I chased him down the road as he hailed                  15 a taxi and got into the taxi with him. During the taxi                  16 ride, I asked Mr Kilgallon as a matter of urgency to be                  17 in contact with Archbishop Nichols with regard to my                  18 serious concerns.                  19 "This he promised to do before he came off as chair.                  20 The next day, I had a long telephone conversation with                  21 him and I felt reassured. Shortly afterwards,                  22 I received an email from Mr Kilgallon in which he said                  23 he had been in contact with Archbishop Nichols and it                  24 was now in his hands.                  25 "Over the following weeks, I heard nothing. I asked</p> <p style="text-align: center;">Page 6</p>
<p>1 Rose Anderson, NCSC secretary, to check out whether                  2 Mr Kilgallon had written to Archbishop Nichols.                  3 I learnt eventually that he had and Archbishop Nichols'                  4 reply was being sent to Bishop Declan Lang. I do not                  5 recall ever receiving further information, even though                  6 I was the link person who had brought this to                  7 Mr Kilgallon's attention.                  8 "Until the end of my NCSC terms of office,                  9 I continued to chase up the dysfunctional situation                  10 regarding the Westminster Safeguarding Office, plus the                  11 many other concerns around safeguarding cases and                  12 failures in safeguarding standards in the diocese.                  13 "These were reported by CSAS to the NCSC on many                  14 occasions."                  15 Exhibit 2 is INQ004807. Exhibit 3 is INQ004808:                  16 "In addition, at the end of many of our quarterly                  17 meetings, I would ask for progress on this matter. On                  18 each occasion, I said something to this effect: 'As                  19 members of the NCSC, we are here for the sole purpose of                  20 safeguarding children and vulnerable adults. Our                  21 purpose is not to defend dysfunctional situations.                  22 I consider that Westminster is not a safe diocese'.                  23 I was often met by silence. However, I do remember the                  24 then NCSC chair, Danny Sullivan, saying to me on a later                  25 occasion that there was a very complicated situation.</p> <p style="text-align: center;">Page 7</p>	<p>1 I replied that I didn't see why and that there is                  2 a simple solution, which is to make sure that the                  3 diocese removed Harry Turner from his post and reordered                  4 the safeguarding office.                  5 "As the link person for Westminster, the instruction                  6 was that a link person should attend a diocesan                  7 commission meeting at least once a year, meet the                  8 diocesan bishop once a year and liaise with the                  9 safeguarding office on a regular basis."                  10 She produces exhibit 4, which is INQ004809.                  11 "The reality was that I never met with                  12 Archbishop Vincent Nichols, although I attempted to do                  13 so. There were real difficulties in getting to                  14 a diocesan commission meeting. The chair changed the                  15 date at the last minute and there were questions from                  16 Harry Turner about why I needed to be there.                  17 "I saw this as obstructive. On my one visit to the                  18 commission in April 2010, I was patently aware that it                  19 was not functioning properly. The visit was wholly                  20 unsatisfactory. At this point in time, I do not recall                  21 the full details, only my overall impression.                  22 "Further, Joe Mullens was appointed as the new                  23 commission chair. This appointment did not utilise the                  24 advice of an external assessor, as advised in the                  25 Cumberlege Report."</p> <p style="text-align: center;">Page 8</p>

<p>1 She produces a document called "Current Areas of 2 Concern", exhibit 5, INQ004810: 3 "As to building good relationships with the 4 Westminster Safeguarding Office, apart from contact with 5 Peter Turner, this never happened." 6 She goes on to talk about the audits of 7 Archdiocese of Westminster 2011: 8 "The dysfunctionality of the relationship between 9 Harry Turner and Peter Turner was such that the agreed 10 date for the audit had been confirmed in May 2011, but 11 had not been discussed by Harry Turner with Peter. 12 Consequently, a problem arose as Peter Turner was on 13 annual leave over the audit date in 2011 and was unaware 14 of the situation. Obviously Peter Turner needed to be 15 at the audit with the necessary prepared paperwork. 16 "Consequently, the audit had to be cancelled, 17 despite the fact that hotel reservations for the CSAS 18 staff had been booked at considerable expense. This 19 caused great inconvenience to CSAS staff who were 20 conducting the audit. This is one more example of 21 the dysfunctional situation in Westminster." 22 She produces correspondence relating to the 23 arrangements for the audit as exhibit 6, INQ004811: 24 "The audit was rearranged for November 2011. The 25 resulting audit showed up considerable difficulties and</p> <p style="text-align: center;">Page 9</p>	<p>1 the Archdiocese of Westminster failed the audit because, 2 on a number of the key findings, standards were not met. 3 "The task of delivering the result of the audit to 4 the chair of the Westminster Diocesan Commission, 5 Joe Mullens, and to Harry Turner, was given to 6 Adrian Child and to me. We met with Mr Turner and 7 Mr Mullens in the Archbishop's House. I recall 8 Harry Turner asking Mr Child if I was a secretary. 9 I viewed the meeting as hostile. I also recall that we 10 requested that an external audit should now be conducted 11 for the sake of transparency because of the considerable 12 failings. I reported back to the NCSC as the link 13 person about the audit failure and requested, on the 14 advice of Mr Child at CSAS, that a reaudit should be 15 conducted by an independent organisation such as the 16 NSPCC. 17 "I was told by the vice-chairs that, prior to 18 a reaudit, an interim three-month appraisal of the files 19 was to be conducted in-house by the Westminster 20 auxiliary bishop, John Arnold, who was also a member of 21 the NCSC. 22 "At the NCSC meeting of 13 December 2011, the 23 relevant minutes of which have been produced as 24 exhibit 7, INQ004812, the discussion centred on the 25 dysfunctionality in the safeguarding office and</p> <p style="text-align: center;">Page 10</p>
<p>1 a suggestion had been made that there should be 2 a thorough review of the arrangements. 3 "Archbishop Nichols had taken this on board and 4 proposed that he and John Arnold would look at this with 5 the new chair of the diocesan commission. Also minuted 6 was the fact that NCSC members expressed their 7 continuing concerns concerning the dysfunctional 8 relationships and suggested that there was a need for 9 a full case file review by an independent person. 10 "Members were concerned that the new chair may not 11 be independent, as he had been a member of the diocesan 12 commission for some time. 13 "I was aware that, as link person to Westminster, 14 the level of dysfunctionality in the diocese was such 15 that I was making no headway, despite my continual 16 attempts to push things forward. I recall meeting with 17 the NCSC vice-chair, Sister Jane Bertelsen, and Bishop 18 Declan Lang standing in as joint chairs. They agreed 19 with me. I am not clear about the exact wording, but 20 the implication from Sister Jane was that a more senior 21 person, such as the NCSC chair, was needed to deal with 22 this serious and sensitive matter. I further recall 23 that Sister Jane suggested that a man might be more 24 appropriate to liaise with Archbishop Vincent Nichols. 25 I raised the question as to whether</p> <p style="text-align: center;">Page 11</p>	<p>1 Archbishop Nichols was receiving special treatment 2 because of his status. I also asked whether this would 3 set a precedent for the future, how this would affect 4 the diocese and how this would be perceived in reference 5 to the role of the link person. I found these questions 6 in my diary notes. 7 "In March 2012, I wrote to the vice-chairs, saying 8 that I thought that I should step aside from the link 9 role because the situation was so serious that I felt it 10 would be best handled by the recently appointed NCSC 11 chair, Danny Sullivan. 12 "Despite the fact that I'd stepped aside as link 13 person for Westminster, I continued to the end of my 14 time on the NCSC to persistently ask questions about the 15 continuing dysfunction and failures of the safeguarding 16 arrangements in Westminster. 17 "Sometime in the audit of 2012, a new member of 18 the NCSC, Peter Houghton, took up the link role of link 19 person to Westminster. He went on some months later to 20 become the chair of the Westminster commission on the 21 resignation of Joe Mullens while remaining a member of 22 the NCSC. 23 "I wondered at the time whether this could be 24 interpreted as a conflict of interest. In the draft 25 minutes of the NCSC meeting of 11 December 2012,</p> <p style="text-align: center;">Page 12</p>

<p>1 exhibit 8, INQ004813, it says:  2 "Westminster. A reaudit is to be arranged with the  3 link member involved and with an independent auditor'.  4 This did not happen.  5 "In an NCSC briefing paper in August 2013 there was  6 a document from Adrian Child, 'Outstanding issues of  7 concern' and there is a list of significant points in  8 reference to Westminster."  9 That document is exhibit 3:  10 "The points were as follows: the audit visit  11 conducted September to November 2011; draft report  12 issued 25 November 2011; serious concerns were  13 identified relating to induction, supervision, support  14 and training; recording practice was inadequate; case  15 work was not always compliant with national procedures;  16 overview and monitoring of the safeguarding office  17 appeared deficient; and the office relationships  18 dysfunctional. The level of resource allocated to  19 safeguarding appeared to be inadequate, given the scale  20 of the task, and in comparison to the majority of other  21 dioceses.  22 "In December 2011, it was agreed that a reaudit of  23 the archdiocese would occur once files were brought up  24 to an acceptable standard. In February 2013, it was  25 identified that Archbishop Vincent wished to review all</p> <p style="text-align: center;">Page 13</p>	<p>1 safeguarding arrangements in Westminster and was to  2 appoint an Episcopal Vicar for Safeguarding. This was  3 welcomed.  4 "It is approaching two years since the audit of  5 Westminster was undertaken, and the following issues are  6 yet to be resolved. The constitution of  7 the safeguarding office remains inadequate; the  8 Safeguarding Commission has no chair and may not have  9 the required standard of representation, as set out in  10 Towards a Culture of Safeguarding; cases identified as  11 mismanaged in 2011 appear not to have been  12 satisfactorily resolved; a further high-profile case has  13 recently emerged which was not dealt with under national  14 procedures and presents an unacceptable risk to both  15 individuals and to the reputation of the church; there  16 is no firm date established for a reaudit.  17 "In reference to the above, I wish to make this  18 point: it did not seem to matter whether it was the  19 chair or me or advice from CSAS or the new link member.  20 In all cases, I viewed the ongoing situation as  21 unresolved. I failed to understand then, and I fail to  22 understand now, why this was the case. I often pointed  23 out that the solution was simple: the safeguarding  24 coordinator and the safeguarding office were  25 dysfunctional, leaving the diocese as an unsafe place</p> <p style="text-align: center;">Page 14</p>
<p>1 and urgently needed to be reordered.  2 "I hope that I have demonstrated this in this  3 witness statement. Other members of the NCSC agreed  4 with me on this. One colleague who was in email contact  5 with me expressed her own very strong views in an email  6 to the then NCSC chair, Danny Sullivan. The obvious  7 solution was to reorder the safeguarding office by  8 Archbishop Vincent Nichols first removing the  9 safeguarding coordinator from his post which he had held  10 since the days of Cardinal Hume and addressing the  11 underlying issues. This did not happen and Harry Turner  12 continued to remain in post throughout my time on the  13 NCSC.  14 "In addition, in my time on the NCSC, there was no  15 reaudit by an external body. I feel certain that  16 Archbishop, later Cardinal, Vincent Nichols was fully  17 aware of the situation. I have asked myself on many  18 occasions why he allowed this dangerous situation to  19 persist primarily by keeping Harry Turner in post.  20 "As you can see from this statement, many warnings  21 were given to Archbishop Nichols, but there never seemed  22 to be any resolution. In my view, and I maintain this  23 from my original meeting with Peter Turner when he  24 disclosed the problem to me in June 2010, and until the  25 end of my tenure on the NCSC, the safeguarding</p> <p style="text-align: center;">Page 15</p>	<p>1 arrangements in Westminster, for the many reasons  2 highlighted in the statement, were not attended to and  3 could have been.  4 "This left the diocese as unsafe for children and  5 vulnerable adults, which is the one and only  6 responsibility of safeguarding. There is no point to  7 the NCSC or Diocesan Safeguarding Commissions or having  8 all the protocols and policies in the world if this is  9 not adhered to.  10 "My deep concern was that keeping Harry Turner in  11 post, for whatever reason, comes across as being more  12 important than safeguarding.  13 "The Archdiocese of Westminster experience is in  14 sharp contrast to my experience and work as NCSC link  15 person to the Archdiocese of Southwark and the religious  16 congregation the Salvatorians. In both these cases,  17 I had meetings with the Archbishop of Southwark and the  18 Provincial of the Salvatorians on a regular basis. In  19 both cases I was able to make significant contributions  20 to aid and assist the safeguarding officers. For  21 example, I helped them to secure better office space and  22 a better environment for victims, plus I gave support on  23 a regular basis to the officers. I went to commission  24 meetings without any form of obstruction. These  25 meetings were always cordial."</p> <p style="text-align: center;">Page 16</p>

<p>1 As an overview she says that, first of all, the                  2 NCSC/CSAS was successful in implementing a great number                  3 of the recommendations of the Cumberlege Commission                  4 Report 2007:                  5 "For example, it introduced a number of new policies                  6 and protocols. It also had many training days for                  7 bishops and child protection officers and safeguarding                  8 coordinators. It oversaw the audits of all dioceses and                  9 religious congregations and introduced review panels                  10 through CSAS. The chairs and many members of the NCSC                  11 gave up their time to the hard work of endeavouring to                  12 improve the safeguarding practices of the Roman Catholic                  13 Church in England and Wales. Adrian Child and his team                  14 at CSAS worked tirelessly. The sudden closure of their                  15 Birmingham office by the now Bishop Marcus Stock was                  16 handled ruthlessly."                  17 She goes on to give a number of lessons and                  18 recommendations which will be added to the schedule of                  19 proposed recommendations in due course.                  20 Chair, the next witness will be called live, and                  21 that's Sister Jane Bertelsen.                  22 SISTER JANE BERTELSEN (sworn)                  23 Examination by MR SAAD                  24 MR SAAD: Sister Jane, your name, please?                  25 <b>A. Jane Bertelsen.</b></p> <p style="text-align: center;">Page 17</p>	<p>1 Q. Now, you were professed as a member of the Franciscan                  2 Missionaries of the Divine Motherhood, 20 October 1979;                  3 is that right?                  4 <b>A. That is correct.</b>                  5 Q. You have been actively involved in policy development                  6 and formation of members of the church for safeguarding                  7 of children and vulnerable adults for 20 years in                  8 Australia, England and Wales, and that's been part of                  9 your ministry?                  10 <b>A. Yes.</b>                  11 Q. You have been on the Conference of Religious Executive                  12 Advisory Safeguarding Group for several years?                  13 <b>A. Yes.</b>                  14 Q. You were a member of the COPCA board for two years,                  15 until, of course, it was superseded by the NCSC?                  16 <b>A. Mmm-hmm.</b>                  17 Q. You were former vice-chair of the NCSC -- you are the                  18 former chair. You were the vice-chair of the NCSC                  19 between 2007 and 2014?                  20 <b>A. Yes.</b>                  21 Q. Currently, you are a member of the Pontifical Commission                  22 for the Protection of Minors?                  23 <b>A. Yes.</b>                  24 Q. And you have been a member since 2018; is that right?                  25 <b>A. Yes.</b></p> <p style="text-align: center;">Page 18</p>
<p>1 Q. You are a current member, as well, of the Southwark                  2 Archdiocesan Safeguarding Commission?                  3 <b>A. Yes.</b>                  4 Q. I want to take you, please, Sister Jane, to paragraph 2                  5 of the first statement you provided, which, chair, is                  6 behind tab A/1 of your bundle, starting, please, with                  7 the creation of the PCPM.                  8 The idea, was it not, was of a commission of experts                  9 to act as an advisory body to the Pope for the                  10 protection of minors and vulnerable adults and was first                  11 proposed by the Council of Cardinals in December 2013?                  12 <b>A. Yes.</b>                  13 Q. The college, you say, identified this task as one of                  14 the most urgent priorities for the church today?                  15 <b>A. Mmm-hmm.</b>                  16 Q. The Pope approved the proposal and appointed Cardinal                  17 Sean O'Malley with the task of forming it?                  18 <b>A. That is correct.</b>                  19 Q. Pope Francis formally appointed the first eight members.                  20 They came from a variety of backgrounds -- men, women,                  21 lay, religious and clergy -- and, some months later,                  22 nine additional commission members were appointed; is                  23 that correct?                  24 <b>A. Yes.</b>                  25 Q. In March 2014, Pope Francis issued an official and</p> <p style="text-align: center;">Page 19</p>	<p>1 formal statement establishing the PCPM, and the                  2 statement defined the commission's task as being to                  3 advise the Roman Pontiff on effective policies for the                  4 protection of minors and vulnerable adults and education                  5 programmes for all who are involved in this work. Is                  6 that right?                  7 <b>A. Yes.</b>                  8 Q. April 2015, Pope Francis formally approved the statutes                  9 of the commission and confirmed Cardinal O'Malley as                  10 president of the commission and Monsignor Oliver as                  11 secretary, and on 17 February 2018, Pope Francis                  12 confirmed the commission and its mandate at the end of                  13 a three-year period, the ad experimentum period. Can                  14 you help us with what that means, please?                  15 <b>A. Well, it was implementing -- it was experimental, and he                  16 confirmed that this would continue, the commission would                  17 continue.</b>                  18 Q. So, having had those three periods of an experiment,                  19 it's now confirmed that the commission is established                  20 and in place?                  21 <b>A. Yes.</b>                  22 Q. For the sake of clarity, whilst you are a member of                  23 the commission, you are not a representative of                  24 the Catholic Church in England and Wales, are you?                  25 <b>A. No.</b></p> <p style="text-align: center;">Page 20</p>

<p>1 Q. The focus of the commission is not on specific episcopal 2 conferences; is that right?</p> <p>3 <b>A. That is correct.</b></p> <p>4 Q. I'm looking now, if it assists you, Sister Jane, at 5 paragraph 8 of your statement, which is on the third 6 page. In terms of the work of the PCPM, you say it is 7 involved in a broad range of initiatives, but you split 8 the work, in broad order, in three categories: healing 9 and care, and that includes working with/listening to 10 survivors of abuse. Is that right?</p> <p>11 <b>A. Yes, that's correct.</b></p> <p>12 Q. Guidelines and norms, and you say the purpose is to help 13 Conferences of Bishops, and of religious, to develop and 14 to implement effective policies, procedures and 15 programmes for the protection of minors and vulnerable 16 adults. And, finally, education and formation, which 17 you say is to explore the best ways to provide education 18 and formation and safeguarding minors and vulnerable 19 adults. The PCPM is frequently invited to contribute to 20 conferences, seminars and workshops in this field 21 throughout the world.</p> <p>22 You say that, whilst there isn't a focus on the 23 specific episcopal conference, the PCPM has drawn 24 heavily on the England and Wales model of a Survivors 25 Advisory Panel as a means of creating a space for</p> <p style="text-align: center;">Page 21</p>	<p>1 listening to and working with survivors of abuse. Is 2 that also correct?</p> <p>3 <b>A. That is correct.</b></p> <p>4 Q. The PCPM meets formally in a plenary assembly for 5 several days twice a year, and within the PCPM you serve 6 on the healing and care working group, and we spoke 7 about that category of work slightly earlier on.</p> <p>8 Could you give an example of -- well, just dealing 9 with it in this way: you say the role of the working 10 group is to help develop strong and viable strategies 11 for the church to listen to victims and survivors, to 12 learn from their experience and to use the experience to 13 develop safeguarding strategy. Can you give an example 14 of a case in which you have listened to 15 a victim/survivor and that has helped contribute to 16 policy?</p> <p>17 <b>A. We begin every plenary assembly, when we gather in Rome, 18 with a testimony or testimonies from survivors. We have 19 had testimonies from Asia, from Southern Africa, from 20 South America. We also have what we -- our working 21 group has a virtual advisory panel, where we gather on 22 Skype and listen -- particularly at the moment we are 23 working with a group of survivors and their families, 24 just to listen to their experience of abuse and how 25 that's affected them, and then, taking the English and</b></p> <p style="text-align: center;">Page 22</p>
<p>1 <b>Wales model of the Survivor Advisory Panel, that is 2 beginning to be formulated in three pilot schemes, in 3 Zambia, in Brazil and in the Philippines.</b></p> <p>4 <b>Now, clearly, they are three very different cultural 5 settings, so it's not "one size fits all", but groups 6 are being set up to advise their local episcopal 7 conferences, as well as to advise the Pontifical 8 Commission in our safeguarding work.</b></p> <p>9 Q. You say that, although the commission only meets twice 10 a year, the work of the commission and the subgroups is 11 continuous through regular meetings, Skype contact, 12 emails and the like.</p> <p>13 I want to take you, please, to paragraph 11 of your 14 statement at page 4, where you're asked to set out some 15 of the positive results of the PCPM, if I can put it in 16 that way.</p> <p>17 You say that, in your personal experience, the 18 commission has brought people around the same table, 19 a global group of people with experience and expertise.</p> <p>20 By which you mean the members of the commission, do you?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. It facilitates a space for the church to independently 23 explore safeguarding issues in order to advise the 24 Holy Father; it's created a profile and a platform for 25 many initiatives at local level, listening to survivors,</p> <p style="text-align: center;">Page 23</p>	<p>1 training, conferences and facilitates this global group 2 to have specific conversations with various dicasteries 3 and departments to further the work of safeguarding in 4 the church.</p> <p>5 You were also asked to describe what the challenges 6 of the commission are -- this is at the bottom of your 7 page 4 at paragraph 12. At 12.1, the first challenge 8 you cite is effectiveness, and you say:</p> <p>9 "Although the commission is an excellent positive 10 initiative of Pope Francis, it is becoming clearer to 11 me, and to other members, that the role of an advisory 12 body, which although global in nature and holding 13 a great amount of expertise, is made up of volunteers 14 who formally meet twice a year and it is limited in its 15 capacity to influence the global church in this area. 16 We represent 13 countries and can have influence in 17 those 13 countries and maybe beyond, in terms of sharing 18 expertise. However, the PCPM has neither the capacity 19 nor the authority, as it is an advisory body, to 20 influence or even support the many episcopal conferences 21 who feel significantly under-resourced in terms of 22 expertise or capacity."</p> <p>23 In terms of the authority that the commission lacks, 24 is there a way of improving that?</p> <p>25 <b>A. If I could just go back to a little bit earlier in my</b></p> <p style="text-align: center;">Page 24</p>

<p>1 statement, when I talk about achievements. I began that                  2 paragraph by talking about "achievement" not being                  3 a helpful word. For me, "achievement" will only be able                  4 to be used when the scourge of abuse is eliminated. So                  5 if we look then to the question of authority, until such                  6 time as the culture changes, hearts and minds change and                  7 we understand the absolute root cause of abuse, even                  8 authority is not going to help.</p> <p>9 However, I think, as the commission develops its                  10 work, as it builds relationships with the various                  11 departments within the Vatican, as it builds                  12 relationships with Bishops' Conferences, which is                  13 becoming more and more significant when the bishops come                  14 to visit Rome on what we call ad limina visits,                  15 safeguarding is now a component of that visit.</p> <p>16 So I think our authority almost needs to come from                  17 a moral authority, and whilst I do believe the                  18 commission needs to be placed in a more central place,                  19 in terms of the governance structure, I know that                  20 Pope Francis is looking at that, and we have contributed                  21 to that conversation.</p> <p>22 Q. Can you help us with when safeguarding became                  23 a component of the ad limina visit?</p> <p>24 A. It's kind of a work in progress as we speak. There is                  25 a series of questions -- when bishops come on their</p> <p style="text-align: center;">Page 25</p>	<p>1 ad limina visits, they have to prepare a whole report                  2 and, as we speak, the component of safeguarding                  3 questions is being built into that report requirement.</p> <p>4 Informally -- informally -- in recent ad limina                  5 visits, there have been significant conversations that                  6 have happened, but I'm not sure -- I can't -- I'm not                  7 sure it's actually a formal part yet.</p> <p>8 Q. Why not?</p> <p>9 A. Because we haven't achieved it yet as a goal. We can                  10 see it's important --</p> <p>11 Q. Why not?</p> <p>12 A. Because we haven't had time. I think we have to                  13 always -- and maybe if I could just say here, I'm not                  14 here to defend, I'm not here to attack, I'm here to                  15 speak the truth, and I'm here in the capacity where                  16 I love our church enough to challenge the church, but                  17 I recognise that we have a long way to go, and I don't                  18 mind saying that, but I'm also very aware that all of                  19 us, I'm sure, would love us to move faster in this                  20 urgent, urgent need of safeguarding, but sometimes                  21 that's just not possible, and we're working as hard as                  22 we can.</p> <p>23 Q. At paragraph 12.3, you cite credibility, and you say:                  24 "The status of the PCPM needs to be enhanced."                  25 That's really along the rationale you've already</p> <p style="text-align: center;">Page 26</p>
<p>1 described when I asked you about authority, is it?</p> <p>2 A. Yes, and we have to remember the global Catholic Church,                  3 even if we think the Church of England and Wales is                  4 complex, I think the global Catholic Church is even more                  5 complex. So for the Pontifical Commission for the                  6 Protection of Minors to be seen as a vital force in the                  7 church will take time. I think Pope Francis' initiative                  8 to bring all the presidents of every Bishops' Conference                  9 throughout the world to a meeting in February speaks of                  10 Pope Francis' commitment, but it doesn't -- it takes                  11 time for that actually to be rolled out in practice.</p> <p>12 Q. Resources and support. You say:                  13 "Whilst it has to be acknowledged that our budget                  14 requests have always been met, it is clear there needs                  15 to be a central focus or office in Rome that holds                  16 authority and co-ordinates efforts across the church.                  17 This office needs to have functional independence, be                  18 well resourced and remain directly accountable to the                  19 Holy Father."</p> <p>20 A. As members of the Pontifical Commission, we have -- at                  21 our April plenary this year, we made a very strong                  22 statement -- that was following the February Summit --                  23 to the Holy Father along those lines, and part of                  24 Pope Francis' efforts at the moment is an entire reform                  25 of the Roman curia. As Pope Francis himself said, "It's</p> <p style="text-align: center;">Page 27</p>	<p>1 like cleaning the sphynx with a toothbrush", but we hope                  2 to have a significant voice in that reform, and I'd like                  3 to think that safeguarding became more central.</p> <p>4 Q. That's an appropriate analogy, is it: you're starting to                  5 clean a huge structure?</p> <p>6 A. Yes.</p> <p>7 Q. With a very small implement?</p> <p>8 A. I'm quoting the Holy Father.</p> <p>9 Q. You said:                  10 "Please describe the working relationship between                  11 the PCPM and the CDF" -- that's at paragraph 13. You                  12 say:                  13 "There's no direct relationship between the PCPM and                  14 the Congregation of the Doctrine of the Faith."                  15 You say:                  16 "The PCPM is an advisory body to the Holy Father                  17 advising on policies and strategic direction. The PCPM                  18 has no involvement in cases. Having said that, there                  19 have been several constructive conversations between the                  20 CDF and PCPM members, including conversations between                  21 the PCPM Working Group involved in guidelines and norms                  22 and the CDF. At the recent plenary assembly, the PCPM                  23 met with Archbishop Scicluna, Adjunct Secretary of                  24 the CDF, for two hours."                  25 Your statement is dated June 2019. Is there</p> <p style="text-align: center;">Page 28</p>

<p>1 a development to that?</p> <p>2 <b>A. I think there's been a very significant development.</b></p> <p>3 <b>During the time of the September plenary, just after</b></p> <p>4 <b>the September plenary, members of the PCPM actually</b></p> <p>5 <b>gathered together 11 dicasteries or departments of</b></p> <p>6 <b>the Vatican, including the CDF. We have to remember,</b></p> <p>7 <b>the CDF is not the only body operating in the Vatican.</b></p> <p>8 <b>Often it gets the headlines, but the --</b></p> <p>9 Q. It may assist if you describe -- forgive me for</p> <p>10 interrupting -- what the role of the CDF is?</p> <p>11 <b>A. I don't think I'm in a position to describe the role of</b></p> <p>12 <b>the CDF.</b></p> <p>13 Q. Very well. But you had a meeting more recent than this</p> <p>14 statement was drafted with a number of departments of</p> <p>15 the Vatican?</p> <p>16 <b>A. Yes, the CDF, the department for clergy, the department</b></p> <p>17 <b>for bishops, the department for laity, the department</b></p> <p>18 <b>for evangelisation, the major superiors, both the men</b></p> <p>19 <b>and the women, the oriental churches, legislative texts,</b></p> <p>20 <b>and some others that I can't remember. But the</b></p> <p>21 <b>secretaries and prefects of all those departments, the</b></p> <p>22 <b>Pontifical Commission managed to get around the same</b></p> <p>23 <b>table to talk about the church, the church's response to</b></p> <p>24 <b>safeguarding.</b></p> <p>25 <b>Now, for me, that was a massive step forward in both</b></p> <p style="text-align: center;">Page 29</p>	<p>1 <b>relationship building, in formation, in discernment,</b></p> <p>2 <b>which Pope Francis so often speaks about, and of working</b></p> <p>3 <b>collaboratively, which isn't the best expertise of</b></p> <p>4 <b>the Catholic Church.</b></p> <p>5 <b>So I think to have achieved that in September is</b></p> <p>6 <b>a very significant -- it might be very small, but a very</b></p> <p>7 <b>significant step forward.</b></p> <p>8 Q. If this was identified by the College of Cardinals as an</p> <p>9 urgent priority in December 2013, why has it taken until</p> <p>10 now for there simply to be a meeting between departments</p> <p>11 about that very issue?</p> <p>12 <b>A. I have to say, I don't know. But I think if we look at</b></p> <p>13 <b>the safeguarding story, even in our own church here in</b></p> <p>14 <b>England and Wales, it has been very slow, and when</b></p> <p>15 <b>I think the reason we are here -- and the reason we are</b></p> <p>16 <b>here is because our church has hurt and damaged many</b></p> <p>17 <b>individuals, it is far too slow. But the fact is, it's</b></p> <p>18 <b>slow. I haven't -- I can't defend that. Everybody</b></p> <p>19 <b>involved in safeguarding is working as hard as they can,</b></p> <p>20 <b>to the best of their ability. I can't defend the</b></p> <p>21 <b>slowness.</b></p> <p>22 Q. I want to move on to a different topic now, Towards</p> <p>23 a Culture of Safeguarding. That document was published</p> <p>24 whilst you were vice-chair of the NCSC; is that right?</p> <p>25 <b>A. That is correct, yes.</b></p> <p style="text-align: center;">Page 30</p>
<p>1 Q. If it assists you, I'm looking now at the second page of</p> <p>2 your second statement, which is behind tab A/2, and</p> <p>3 similarly for you, chair, A/2. The background to it was</p> <p>4 that the Cumberlege Report had identified that</p> <p>5 safeguarding needed to become part of the church's</p> <p>6 mission, whereas it had, post Nolan, been seen --</p> <p>7 I think you described it as a "big fear-driven cloud</p> <p>8 hanging over everyone's head"?</p> <p>9 <b>A. I did.</b></p> <p>10 Q. Is that a fair summary?</p> <p>11 <b>A. That's how I felt -- I experienced it and that's how</b></p> <p>12 <b>I saw it.</b></p> <p>13 Q. "Big fear-driven cloud". What do you mean by that?</p> <p>14 <b>A. I think when Nolan published "A Programme for Action" in</b></p> <p>15 <b>2001, and, again, I say this not defending the</b></p> <p>16 <b>indefensible, the church was in a state of shock, panic</b></p> <p>17 <b>almost, "We must do something". Nolan's recommendations</b></p> <p>18 <b>were very clear. I think they were embraced with great</b></p> <p>19 <b>enthusiasm and urgency. But my experience -- and this</b></p> <p>20 <b>is my experience, because I came from the Australian</b></p> <p>21 <b>church, where we'd come at it perhaps from a slightly</b></p> <p>22 <b>different perspective, and I'm not defending the</b></p> <p>23 <b>Australian church either -- it seemed to lack the</b></p> <p>24 <b>pastoral, theological, spiritual language, dimension,</b></p> <p>25 <b>relationships, and so it seemed like all this material</b></p> <p style="text-align: center;">Page 31</p>	<p>1 <b>was being imposed on us instead of us, as church, seeing</b></p> <p>2 <b>all these policies and procedures as gift for us to</b></p> <p>3 <b>fulfil our mission.</b></p> <p>4 <b>Now, the church is made up of human beings, and</b></p> <p>5 <b>I think that was the human experience.</b></p> <p>6 Q. So were parts of the church more reluctant to follow the</p> <p>7 recommendations because of that?</p> <p>8 <b>A. Yes, I felt that, in my experience. They didn't</b></p> <p>9 <b>understand them. They didn't know how to resource them.</b></p> <p>10 <b>They felt attacked.</b></p> <p>11 Q. By whom?</p> <p>12 <b>A. I think there was an element which said, "Okay, we need</b></p> <p>13 <b>to address this, but we'll do it our way". It is a long</b></p> <p>14 <b>time ago.</b></p> <p>15 Q. I'm looking now at paragraph 9 of your statement. One</p> <p>16 of the outcomes of attempting to facilitate a culture of</p> <p>17 confidence you say within the church in relation to</p> <p>18 safeguarding was this initiative, and you say it emerged</p> <p>19 on the back of two key pieces of work: firstly, the</p> <p>20 national learning needs analysis which is a proactive</p> <p>21 initiative aimed at understanding what needed to be done</p> <p>22 in order to ensure children, young people and vulnerable</p> <p>23 adults were safe from harm and a culture of safeguarding</p> <p>24 promoted. You say that you recollect that was initiated</p> <p>25 by the NCSC and CSAS to explore what needs to be done to</p> <p style="text-align: center;">Page 32</p>



<p>1 move away from what you describe as a fear, anxiety and 2 confusion to safeguarding. 3 The second piece of work you cite is the review of 4 safeguarding organisational structures, and that was 5 also instigated by the NCSC, you say in order to 6 establish a representative picture of current 7 safeguarding in the Catholic Church. 8 You say at paragraph 10 that, along with those 9 pieces of work, there was a constant call to keep trying 10 to work towards what you cite as one of the greatest 11 gifts of the Nolan Report as the "One Church" approach. 12 Now, you also footnote after that sentence, you say: 13 "My current view is that the lack of 'One Church' 14 approach within episcopal jurisdictions is one of 15 the greatest challenges of churches all over the world. 16 It is a simple concept, is it not? What's the 17 difficulty in achieving it? 18 <b>A. As we know -- if we take -- let's focus on the Church in 19 England and Wales, but I'm referring to --</b> 20 Q. Yes, please? 21 <b>A. Because it is the church we are aware of at the moment. 22 The church is made up of a number of dioceses and 23 a number of religious congregations, a number of 24 Catholic lay societies. Now, if everybody develops 25 their own guidelines and their own set of policies and</b></p> <p style="text-align: center;">Page 33</p>	<p>1 <b>their own procedures, my experience from the global 2 church is that, very often -- and it is my experience 3 actually in the Church in England and Wales -- victims 4 and survivors can fall between the gaps. Whereas Nolan 5 was very clear that we had to have one set of policies, 6 one set of procedures, that the whole Church in England 7 and Wales would sign up to.</b> 8 <b>In my work at a global level with the Pontifical 9 Commission, that is a real struggle for many 10 conferences, episcopal conferences, because they have 11 different sets of guidelines. Religious congregations 12 in their jurisdiction have their own guidelines, and 13 they just don't match up. So I do think it is a real 14 gift that we have here.</b> 15 Q. The review itself put forward ten recommendations to 16 help further a "One Church" approach. We referred to 17 some of them during Dr Limbrick's evidence last week, 18 and, indeed, we have the document itself. 19 <b>A. Yes.</b> 20 Q. But you do make clear that you have not been able to 21 observe how successful this has been because your direct 22 involvement in national safeguarding issues finished in 23 2014? 24 <b>A. Mmm-hmm.</b> 25 Q. But you are, aren't you, currently the religious</p> <p style="text-align: center;">Page 34</p>
<p>1 representative in the Archdiocese of Southwark. Can you 2 help us with how it's incorporated at a local level? 3 <b>A. I would say my contribution as religious representative 4 on the Archdiocese of Southwark -- the archdiocese was 5 really struggling to find a religious member for the 6 commission, so Archbishop Peter Smith asked me, and 7 I said I would be willing, very much in that advisory 8 capacity. I often can't attend meetings because of my 9 congregational responsibilities. I will support the 10 safeguarding coordinator, particularly in issues in 11 relation to religious orders, but I wouldn't feel 12 confident in saying the effectiveness of all the 13 recommendations as rolled out in the Archdiocese of 14 Southwark. I don't feel in a position to comment in 15 detail.</b> 16 Q. We will speak now about your involvement with 17 safeguarding at a national level, and we will go back, 18 please, to the first statement that you provided, which 19 is behind your tab A/1, and I want to go to page 6 of 20 that statement, please, paragraph 15. We should be 21 clear, should we, that because your involvement ended in 22 2014, what you are speaking about when we deal with this 23 topic is your experience at the time. It is not about 24 what your views or experience of the NCSC is since then? 25 <b>A. No, and I have had very little involvement, just because</b></p> <p style="text-align: center;">Page 35</p>	<p>1 <b>of my congregational responsibilities.</b> 2 Q. Since 2014? 3 <b>A. Yes.</b> 4 Q. You were appointed as the first vice-chair representing 5 the Conference of Religious in 2007, along with the 6 other vice-chair, Bishop Declan Lang. Mr Kilgallon was 7 the first independent chair and, as we know, he was 8 succeeded by Mr Sullivan, who we heard from last week? 9 <b>A. Of course, I have to say that I didn't write -- there 10 was an in-between time when Baroness Patricia Scotland 11 was the chair for a period of time, but unfortunately 12 she just was not able to fulfil that role very 13 effectively.</b> 14 Q. Because of time commitments? 15 <b>A. Because of time commitments, yes.</b> 16 Q. So her tenure was shorter than originally intended? 17 <b>A. Yes.</b> 18 Q. Your primary role was the implementation of 19 the recommendations of Cumberlege, which were obviously 20 in 2007, and in some cases this was a question of 21 developing new approaches, and in others you say was 22 overseeing the fine tuning or reappraisal of existing 23 policies. 24 The work you undertook you summarise at the bottom 25 of that page onwards. You say the formation of the NCSC</p> <p style="text-align: center;">Page 36</p>

1 and helping all involved to come to an understanding of  
 2 what the new body was, people having been used to COPCA,  
 3 which predated it, the appointment of NCSC members on  
 4 behalf of the two conferences and some of the more  
 5 particular pieces of work you also cite. I summarise:  
 6 supporting the role of the CSAS office, working closely  
 7 with the Bishops' Conference and the CoR to facilitate  
 8 the adoption of the Cumberlege recommendations. You say  
 9 especially around the independence of the NCSC, which  
 10 was a new and sometimes difficult concept to adopt. It  
 11 was difficult because ...?  
 12 **A. It is not the way, for centuries, that our church had**  
 13 **functioned. So to have -- I thought it was courageous**  
 14 **of our bishops to adopt that recommendation, to have an**  
 15 **independent lay chair of the NCSC. I felt that was**  
 16 **a very good move. And to resource and empower a group**  
 17 **of competent lay colleagues to work alongside that**  
 18 **independent chair. But it was a new concept.**  
 19 Q. You also say, as I think you touched on earlier,  
 20 "helping the church find a language" -- this is  
 21 17.3.5 -- "and healthy spirituality theology for  
 22 safeguarding which removed the fear and anxiety which  
 23 could so easily paralyse us", is the word you use, and  
 24 that's touching on what you were saying earlier about  
 25 how Nolan was perceived by some in the church.

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1 **A. No, I wasn't told.**  
 2 Q. Did you ask for the reason?  
 3 **A. I'm sure I did, but I didn't get an answer that**  
 4 **I remember.**  
 5 Q. You say -- I'm just going to move to paragraph 20,  
 6 because it deals with this topic --  
 7 **A. Maybe I could say that my memory is -- and it is quite**  
 8 **a while ago -- there was a sense of, this doesn't meet**  
 9 **the needs of diocesan clergy. I'm putting that in**  
 10 **a positive sense. Whereas we felt we'd written it in**  
 11 **a way that was inclusive. So that's my only memory of**  
 12 **the rationale.**  
 13 Q. Did whoever made that criticism propose a redraft so  
 14 that it was suitable?  
 15 **A. I didn't, no.**  
 16 Q. But you say that you were disturbed when this you saw as  
 17 being a crack which appeared in the "One Church"  
 18 approach, and of course this was a recommendation of  
 19 Cumberlege?  
 20 **A. Mmm.**  
 21 Q. Going back to paragraph 17 in your statement, where you  
 22 go through some of the work of the NCSC, at 17.3.7, you  
 23 say:  
 24 "Working with insurers and lawyers to help them see  
 25 that what most victims and survivors were seeking was

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1 **A. Mmm-hmm.**  
 2 Q. You established link persons between the NCSC and each  
 3 diocese, and we heard from Susie Hayward in her  
 4 statement that she was a link person, wasn't she?  
 5 **A. Yes. We were all link persons to two or three dioceses.**  
 6 Q. Yes. Looking over the page, please, at 17.3.6 -- I will  
 7 just start with the bullet point above that, actually.  
 8 There is an integrity in ministry, a code of conduct,  
 9 and that was for the religious engaged in ministry in  
 10 the Catholic Church, but a similar one wasn't adopted by  
 11 the Bishops' Conference, was it?  
 12 **A. Yes. We began, as with all the work of the NCSC, it was**  
 13 **a joint project broadly under the auspices of Archbishop**  
 14 **Peter Smith, because we sat in his department, the**  
 15 **department of citizenship and responsibility, and it was**  
 16 **going along very nicely as a joint project.**  
 17 **Unfortunately, and I don't know why, the draft text was**  
 18 **ready, the introduction was written by Archbishop Smith,**  
 19 **I don't know what happened, but the Bishops' Conference**  
 20 **withdrew from the project, as far as I know,**  
 21 **in April 2013, and I don't know why. But the**  
 22 **religious -- the Conference of Religious went on to**  
 23 **publish their version.**  
 24 Q. The first question arising from that: as vice-chair of  
 25 the NCSC, were you not told the reason for --

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1 a compassionate hearing, someone to believe their story  
 2 and positive pastoral steps offered for their healing."  
 3 So you were having to advocate for that, were you,  
 4 with those stakeholders?  
 5 **A. Yes. I think -- I'd like to think now, as a church,**  
 6 **that we see victims and survivors and their families as**  
 7 **the focal point of our safeguarding work. I do think,**  
 8 **in the early days of really trying to address our**  
 9 **approach to working with survivors and victims, that was**  
 10 **very difficult to get our heads around. I think it --**  
 11 **you know, it is tied up with, you know, media stories of**  
 12 **people only being interested in financial claims, in**  
 13 **compensation. In my experience, that very often is not**  
 14 **the primary purpose. Victims and survivors want to be**  
 15 **believed, they want to be listened to, they want their**  
 16 **story to be heard, and I just think, as a church, we**  
 17 **were not ready to see things through their eyes.**  
 18 Q. You do talk about a shift, particularly in the CoR, from  
 19 a dread of safeguarding to an embrace of it, and do you  
 20 think that's because of the change in language that was  
 21 adopted post Cumberlege?  
 22 **A. Not only a change of language, it was about building**  
 23 **relationships, it was about formation and training, and**  
 24 **this isn't particularly in relation to CoR, but the NCSC**  
 25 **link roles with the dioceses were about building**

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<p>1 <b>relationships. It was about helping religious leaders</b></p> <p>2 <b>to realise that people involved in safeguarding were</b></p> <p>3 <b>there to help them, support them, to support the core</b></p> <p>4 <b>mission of the church, not to be seen there as watchdogs</b></p> <p>5 <b>and people out to get them.</b></p> <p>6 MR SAAD: Chair, I just have a few more documents I'd like</p> <p>7 Sister Jane's comment on before she completes her</p> <p>8 evidence. Perhaps if we can do that and have the</p> <p>9 morning break thereafter?</p> <p>10 THE CHAIR: Yes, continue.</p> <p>11 MR SAAD: Can I take you, please, Sister Jane, to -- we will</p> <p>12 have it up on screen, please -- CHC001705. That is an</p> <p>13 NCSC meeting held on 11 March 2014. You chaired the</p> <p>14 meeting. I would like to go to page 3, please. Item 9,</p> <p>15 "Future plans for CSAS (workforce ...)". It says:</p> <p>16 "Jane Bertelsen advised members that despite the</p> <p>17 many conversations and efforts for a broader and more</p> <p>18 inclusive consultation, the CaTEW trustees had not</p> <p>19 changed their minds regarding the relocation of CSAS to</p> <p>20 Eccelston Square ..."</p> <p>21 Having been located in Birmingham before that:</p> <p>22 "She informed members of a meeting with the CaTEW</p> <p>23 trustees at which the trustees had shown a remarkable</p> <p>24 lack of knowledge regarding the work of NCSC and CSAS</p> <p>25 which she and the other NCSC members found disturbing.</p> <p style="text-align: center;">Page 41</p>	<p>1 She suggested that it would be critical for that</p> <p>2 dialogue to continue. The CaTEW trustees also</p> <p>3 recognised this."</p> <p>4 Asking you about that first, what was it that was</p> <p>5 disturbing?</p> <p>6 <b>A. I clearly remember that meeting in Eccelston Square. As</b></p> <p>7 <b>we from the NCSC began talking about why we didn't see</b></p> <p>8 <b>this as a good idea, it became very clear to us -- and</b></p> <p>9 <b>it wasn't all the trustees there, the trustees we were</b></p> <p>10 <b>meeting with -- that a number of these issues just had</b></p> <p>11 <b>not been thought of or addressed, and it seemed to me</b></p> <p>12 <b>that it just emphasised the point which I think we'd</b></p> <p>13 <b>find in that document Towards a Culture of Safeguarding</b></p> <p>14 <b>of the need for trustees to be involved in formation; of</b></p> <p>15 <b>the importance of safeguarding; of the importance of</b></p> <p>16 <b>the independence from the hierarchical church, if you</b></p> <p>17 <b>like -- not even hierarchical, the religious as well.</b></p> <p>18 <b>The comment -- as the trustees said, they also</b></p> <p>19 <b>recognised this. There were just things that they just</b></p> <p>20 <b>didn't know about it. So it certainly felt to -- I can</b></p> <p>21 <b>only speak for myself here, that it had not been</b></p> <p>22 <b>a discerned decision, a process of discernment,</b></p> <p>23 <b>a collaborative process of discernment; it had been, it</b></p> <p>24 <b>seemed to me, a business-driven discernment -- decision,</b></p> <p>25 <b>without looking at the safeguarding needs. It was</b></p> <p style="text-align: center;">Page 42</p>
<p>1 <b>actually a very constructive conversation, but it was</b></p> <p>2 <b>probably trying to shut the gate after the horse had</b></p> <p>3 <b>bolted.</b></p> <p>4 Q. Finally, please, I'd like to take you to a document</p> <p>5 CHC001741, which, chair, is behind your tab B/6. This</p> <p>6 is an NCSC strategy day, 4 November 2011, and at the</p> <p>7 bottom of that page, "Current issues":</p> <p>8 "Jane led the discussion on current issues and</p> <p>9 referred to the paper from Adrian. (appendix 1)."</p> <p>10 We will look at that in a moment:</p> <p>11 "She reminded members that the commission cannot</p> <p>12 afford to be railroaded by today's headlines in</p> <p>13 developing the overall strategy. She suggested a number</p> <p>14 of areas of concern:</p> <p>15 "Issues relating to the transition period in the</p> <p>16 appointment of chair of the NCSC. Jane confirmed that</p> <p>17 Patricia Scotland would be standing down and that</p> <p>18 Patricia had discussed this with Archbishop Nichols."</p> <p>19 Why is it that she would have to discuss that with</p> <p>20 Archbishop Nichols, just to help us with the structure?</p> <p>21 <b>A. Because the appointment of the chair was a joint</b></p> <p>22 <b>appointment between the President of CoR and the</b></p> <p>23 <b>President of the Bishops' Conference.</b></p> <p>24 Q. Next, on to page 3, please, of the same document, a SWOT</p> <p>25 analysis is produced. I wanted to ask you about the</p> <p style="text-align: center;">Page 43</p>	<p>1 "Threats" column:</p> <p>2 "NCSC irrelevant."</p> <p>3 Quite a harsh thing for an organisation to say about</p> <p>4 itself. What was the reasoning behind that?</p> <p>5 <b>A. Well, as we all know, when we do SWOT analyses,</b></p> <p>6 <b>everything is put on the table. I guess we were still</b></p> <p>7 <b>feeling, at that stage, that there were elements of</b></p> <p>8 <b>the church which were struggling to embrace Cumberlege's</b></p> <p>9 <b>vision of having a commission that was functionally</b></p> <p>10 <b>independent. Things happen -- you can often forget the</b></p> <p>11 <b>strengths, which are all there as well -- that make you</b></p> <p>12 <b>just wonder, are we relevant? I can't remember the</b></p> <p>13 <b>details of what prompted that to be said. I don't think</b></p> <p>14 <b>it's anywhere in that document as to why it was said.</b></p> <p>15 Q. Was it a feeling that was shared amongst many in the</p> <p>16 commission, that it was irrelevant?</p> <p>17 <b>A. I think it was more a feeling that in some sections of</b></p> <p>18 <b>the church it was -- not some members, but some sections</b></p> <p>19 <b>of the church or particular dioceses or particular</b></p> <p>20 <b>groups, but I really can't remember the detail.</b></p> <p>21 Q. Page 5, please. At the top, speaking about</p> <p>22 recommendation 72 of the Cumberlege Report, which I will</p> <p>23 say for short is the general decree recommendation, it</p> <p>24 says:</p> <p>25 "The recent letter from Cardinal Levada overtakes</p> <p style="text-align: center;">Page 44</p>

<p>1 this."                  2 He was an archbishop in America, wasn't he, and                  3 a prefect of the CDF?                  4 <b>A. Mmm.</b>                  5 Q. What was the letter and why did it overtake the                  6 recommendation, can you remember?                  7 <b>A. No, I'm sorry, I can't.</b>                  8 Q. Page 7, please. There is a section two-thirds of                  9 the way down the page where it says "Jane":                  10 "As vice-chair, she suggested that her relationship                  11 with CoR ... was not very effective."                  12 Two bullet points down:                  13 "We are getting more sidelined."                  14 Can you help us with those two points? Why was your                  15 relationship with CoR not very effective?                  16 <b>A. The Conference of Religious -- now, as I remember it,</b>                  17 <b>the Conference of Religious, at that time, was going</b>                  18 <b>through a fairly significant time of change, and the</b>                  19 <b>Conference Executive, for a period of time -- my memory</b>                  20 <b>was that it went through a very bad patch of</b>                  21 <b>understanding safeguarding. As a result, there wasn't</b>                  22 <b>that ease of relationship, even though I wasn't on the</b>                  23 <b>executive but one of the other vice -- the other</b>                  24 <b>religious on the NCSC was. It was difficult to get the</b>                  25 <b>support of the CoR Executive. Because, bearing in mind,</b></p> <p style="text-align: center;">Page 45</p>	<p>1 <b>the CoR Executive can only -- it doesn't have any</b>                  2 <b>authority over any religious congregation. So we needed</b>                  3 <b>their support to at least try and get the message out to</b>                  4 <b>the very diverse group of religious congregations.</b>                  5 Q. Was that forthcoming?                  6 <b>A. Eventually, oh, yes. Yes, significant change.</b>                  7 Q. Finally, please, page 13 of that document. This is the                  8 beginning of the appendix produced by Mr Child. The top                  9 three paragraphs, please, if I can have that magnified:                  10 "The approach to safeguarding within the church                  11 relies heavily on an assumed co-operation and compliance                  12 with national procedures and Cumberlege recommendations,                  13 fully supported by bishops and congregation leaders.                  14 "Where this assumption is not fully met, there are                  15 not the resources or mechanisms sufficiently effective                  16 to hold people to account."                  17 Would that be a fair summary of the position for the                  18 NCSC and CSAS during your tenure?                  19 <b>A. During my tenure, yes.</b>                  20 MR SAAD: Those are all the questions I have for you. Is                  21 there anything you wish to add to your evidence?                  22 <b>A. No, I think that's -- thank you.</b>                  23 MR SAAD: Chair, are there any questions?                  24 THE CHAIR: Ms Sharpling?                  25</p> <p style="text-align: center;">Page 46</p>
<p>1 Questions from THE PANEL                  2 MS SHARPLING: Thank you, Sister, just one question from me.                  3 We have spoken a lot during your evidence about the                  4 difficulties of speeding things up, and it is complex                  5 and slow, but not for want of effort, was your evidence,                  6 I think. I'm just interested in what your views are on                  7 how it might be speeded up. Is there anything that                  8 comes to your mind that would help move things along?                  9 <b>A. For me, it seems so obvious. For me, safeguarding does</b>                  10 <b>lie at the heart and the core of our mission of living</b>                  11 <b>the gospel, and I struggle to understand why everybody</b>                  12 <b>doesn't see it like me.</b>                  13 <b>But I guess, in any organisation -- and we are all</b>                  14 <b>part of different organisations, big ones, small ones,</b>                  15 <b>international ones -- change of mind-set takes time. In</b>                  16 <b>my own congregation, we can have -- we can see where</b>                  17 <b>we're going, but to actually get everybody to come</b>                  18 <b>onside with us and travel that journey just takes time.</b>                  19 <b>I haven't got any easy solutions, except it seems part</b>                  20 <b>of the human condition not to manage change very well.</b>                  21 <b>So I haven't got any easy answers.</b>                  22 MS SHARPLING: All right. Thank you.                  23 THE CHAIR: Just one question from myself: the most                  24 immediate question you were asked there about the                  25 situation where there were not the mechanisms to hold --</p> <p style="text-align: center;">Page 47</p>	<p>1 effectively hold people to account, are you in                  2 a position to make any comment about what the current                  3 position is?                  4 <b>A. No, I wouldn't be?</b>                  5 THE CHAIR: Thank you. Thank you very much, Sister Jane.                  6 <b>A. Thank you.</b>                  7 <b>(The witness withdrew)</b>                  8 MR SAAD: Chair, would that be a moment for the morning                  9 break?                  10 THE CHAIR: We will return at 12.05 pm.                  11 (11.47 am)                  12 (A short break)                  13 (12.05 pm)                  14 MS KATHY JANINA PERRIN (sworn)                  15 Examination by MS CAREY                  16 MS CAREY: Chair, we are turning now to the evidence of                  17 Ms Kathy Perrin in relation to insurance claims and how                  18 they interact in relation to child sexual abuse.                  19 Ms Perrin, your full name, please?                  20 <b>A. Kathy Janina Perrin.</b>                  21 Q. I think if you have in front of you, Ms Perrin, your                  22 main statement, which is behind tab 1, and then there                  23 was a shorter statement that you have submitted more                  24 recently, clarifying a number of matters. Firstly,                  25 I think you are the chief executive officer of</p> <p style="text-align: center;">Page 48</p>

<p>1 the Catholic Insurance Service Limited?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Known now as CIS?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. You have been in that position since January 2016, are</p> <p>6 a solicitor by background, and worked for a solicitors</p> <p>7 firm as an associate in the insurance practice group.</p> <p>8 I think was that, in fact, dealing with, in part, child</p> <p>9 sexual abuse claims on behalf of the solicitors?</p> <p>10 <b>A. Yes, that's right.</b></p> <p>11 Q. You moved then from the solicitors, joining what was</p> <p>12 then called the Catholic Church Insurance Association,</p> <p>13 or CCIA as we knew it. You joined there in 2010?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. I think we can deal with the background to the CCIA and</p> <p>16 CIS as it became quite shortly, but is this the</p> <p>17 position, that, in 1975, the Bishops' Conference of</p> <p>18 England and Wales, and indeed of Scotland, established</p> <p>19 the Insurance Committee, as it became known, and what</p> <p>20 was the purpose of the Insurance Committee?</p> <p>21 <b>A. So the Insurance Committee was established to set up</b></p> <p>22 <b>a bulk purchasing scheme for insurance for primarily</b></p> <p>23 <b>Catholic dioceses but also religious orders, so that</b></p> <p>24 <b>they could benefit from economies of scale, and it also</b></p> <p>25 <b>acted as an advisory body to the Bishops' Conferences on</b></p> <p style="text-align: center;">Page 49</p>	<p>1 <b>matters relating to insurance and risk.</b></p> <p>2 Q. That Insurance Committee -- what was known as the</p> <p>3 Insurance Committee, I think until 1997, when this</p> <p>4 scheme became known as the working name Catholic Church</p> <p>5 Insurance Association, or CCIA?</p> <p>6 <b>A. That's right. In 1997, the Insurance Committee</b></p> <p>7 <b>recruited staff to then run and manage the scheme.</b></p> <p>8 Q. It remained known as the CCIA -- is this right? --</p> <p>9 until September 2017, when the business staff and assets</p> <p>10 of CCIA were transferred to the Catholic Insurance</p> <p>11 Service Limited or CIS?</p> <p>12 <b>A. That's right.</b></p> <p>13 Q. Despite the name changes, there's been no change,</p> <p>14 though, to the activities undertaken by the</p> <p>15 organisation, and no change as a result of going from</p> <p>16 CCIA to CIS; is that right?</p> <p>17 <b>A. That's correct.</b></p> <p>18 Q. Now, I think, looking at your paragraph 7, Ms Perrin,</p> <p>19 there is no obligation on the diocese to use CIS's</p> <p>20 services; is that right?</p> <p>21 <b>A. That's right, yes.</b></p> <p>22 Q. Can you help us, though, out of the 22 dioceses in</p> <p>23 England and Wales, how many currently are insured via</p> <p>24 CIS?</p> <p>25 <b>A. Yes, that's an update to the statements. At the time</b></p> <p style="text-align: center;">Page 50</p>
<p>1 <b>I drafted the statement, that was 19 dioceses, but as of</b></p> <p>2 <b>29 September this year, another diocese has joined the</b></p> <p>3 <b>scheme, so we now have 20 dioceses.</b></p> <p>4 Q. Who was it who joined?</p> <p>5 <b>A. The Diocese of Clifton.</b></p> <p>6 Q. So that just leaves the Archdiocese of Birmingham and</p> <p>7 the Diocese of Hexham and Newcastle using commercial</p> <p>8 insurance brokers, not CIS?</p> <p>9 <b>A. That's correct.</b></p> <p>10 Q. So 20 out of the 22 dioceses use your services. What</p> <p>11 about the orders, please? How many of those are listed</p> <p>12 as policyholders with CIS?</p> <p>13 <b>A. Again, at the time of writing the statement, there were</b></p> <p>14 <b>somewhere near 40 religious orders and congregations.</b></p> <p>15 <b>Since our latest policy renewal on 29 September, we have</b></p> <p>16 <b>reduced those numbers intentionally down to 20, so about</b></p> <p>17 <b>half.</b></p> <p>18 Q. You say you have reduced it down intentionally. Why was</p> <p>19 that decision made?</p> <p>20 <b>A. That's right. The scheme that we run and the policies</b></p> <p>21 <b>that we put in place are suitable for dioceses. They're</b></p> <p>22 <b>deliberately tailored to meet the needs of dioceses</b></p> <p>23 <b>which are actually quite large organisations. Some of</b></p> <p>24 <b>the religious orders we were arranging insurance for</b></p> <p>25 <b>were far smaller and actually the policies weren't</b></p> <p style="text-align: center;">Page 51</p>	<p>1 <b>meeting their needs. So we have put different</b></p> <p>2 <b>arrangements in place for them.</b></p> <p>3 Q. Could we infer from that that the orders that CIS does</p> <p>4 assist with are some of the bigger orders?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. I want to look firstly, please, at some of the abuse</p> <p>7 claims data that you have been able to compile in</p> <p>8 relation to both dioceses and orders. Can we call up on</p> <p>9 screen, please, CHC001880. Chair, this is a large</p> <p>10 spreadsheet, so we have not copied it in the bundle for</p> <p>11 you. But could we turn to the first page, and can we</p> <p>12 enlarge perhaps the top few rows. If you have good</p> <p>13 eyesight, you may be able to read this, but let's just</p> <p>14 deal with it in summary. I think there are 435 entries</p> <p>15 on this schedule, if one scrolls to the bottom of</p> <p>16 the page -- please don't. Is that right, Ms Perrin?</p> <p>17 <b>A. Yes, I believe that's right.</b></p> <p>18 Q. Help us, those 435 entries, what do they relate to?</p> <p>19 <b>A. So these are claims that have been made for child sexual</b></p> <p>20 <b>abuse against Roman Catholic dioceses in England and</b></p> <p>21 <b>Wales.</b></p> <p>22 Q. Going back how far?</p> <p>23 <b>A. Going back as far as records allow.</b></p> <p>24 Q. So this is a schedule compiled from the records</p> <p>25 available. Is this right, that this does not include</p> <p style="text-align: center;">Page 52</p>

<p>1 allegations of CSA, child sexual abuse, but only where 2 there's been a claim made -- 3 <b>A. Yes.</b> 4 Q. -- via CIS? 5 <b>A. No, not just via CIS. So what we tried to do is to</b> 6 <b>obtain details where perhaps a claim had been made</b> 7 <b>against a diocese before they joined us, and we still</b> 8 <b>endeavoured to include those details. That's why there</b> 9 <b>are some gaps. Some of the older claims, claims where</b> 10 <b>we didn't have any records ourselves, the records are</b> 11 <b>a bit patchier.</b> 12 Q. I think you have said this at paragraph 39, that in the 13 past, many Catholic dioceses were involved in 14 residential childcare, and have you included details of 15 claims, where known, where residential -- a claim was 16 being made in relation to residential childcare? 17 <b>A. Yes, I have. I think, although some dioceses set up</b> 18 <b>separate organisations, separate companies in some</b> 19 <b>cases, to operate children's homes, the victims and</b> 20 <b>survivors always perceived the homes to have been run by</b> 21 <b>the dioceses, and I felt that they would wish for the</b> 22 <b>claims to appear as part of the statistics. So we have</b> 23 <b>tried to give as full a picture as possible.</b> 24 Q. If we can just go through, perhaps, the top line, by way 25 of example, and you can help us with what it is that the</p> <p style="text-align: center;">Page 53</p>	<p>1 schedule is actually telling us, we can see there, 2 clearly, that the first claim, the name of the insurer, 3 the diocese concerned was Westminster, if we go across, 4 obviously we have ciphered/redacted the claimant's date 5 of birth and, where appropriate, either named the 6 alleged abuser or ciphered them. You have set out there 7 whether there were convictions against that perpetrator, 8 a little bit of detail about what the perpetrator was 9 convicted of -- we can see that Father 10 Eugene Fitzpatrick was convicted in June 2017 and 11 sentenced to 22 years for historical abuse against 12 a number of boys. 13 The "Other complaints" column, what is that intended 14 to signify? 15 <b>A. So if other complaints or claims have been made in</b> 16 <b>respect of the same alleged abuser.</b> 17 Q. "Nature of allegations", clearly "sexual". "Context: 18 parish". Is that where the abuse was alleged to have 19 taken place? 20 <b>A. Yes, that's right.</b> 21 Q. We can see there in a parish setting. As we go down, 22 you will see children's homes and other names. "The 23 locus", is that, would name the place if it were 24 appropriate to do so. Not in this case. "Exposure 25 period", what does that mean?</p> <p style="text-align: center;">Page 54</p>
<p>1 <b>A. That's an insurance term. That's the dates of the abuse</b> 2 <b>in that case.</b> 3 Q. In this case, it was late 80s to early 90s. "Year of 4 first complaint to insured". Probably speaks for 5 itself, but when it first came to light from the 6 insurance perspective? 7 <b>A. Well, when it first came -- so your first complaint to</b> 8 <b>the insured.</b> 9 Q. Sorry, to the diocese? 10 <b>A. Yes, when the first report was made to the diocese.</b> 11 Q. "Year of letter of claim". What does that relate to? 12 <b>A. That's the year in which the letter of claim, so the</b> 13 <b>letter before action to commence the civil claim, was</b> 14 <b>received. There often can be a difference. A victim or</b> 15 <b>survivor may approach the diocese to report their abuse</b> 16 <b>and it may be a number of years before they decide they</b> 17 <b>wish to make a claim for compensation.</b> 18 Q. That's why then we would have -- in theory, you could 19 have a different date for the year of the first 20 complaint to the diocese and it could be a different 21 date for the year of the letter of the claim? 22 <b>A. Yes, that's right. There may also be no date for year</b> 23 <b>of first complaint to the diocese because the first we</b> 24 <b>may hear of something is a letter of claim.</b> 25 Q. Understood. "Year of issue". It doesn't apply in this</p> <p style="text-align: center;">Page 55</p>	<p>1 case, but what does that column signify? 2 <b>A. That's when legal proceedings are actually issued.</b> 3 Q. We can see, though, the next column, in this particular 4 entry, the claim was settled. I think, if you scroll 5 down -- don't do it, but also in that column people will 6 find reference to actions being discontinued. What does 7 that mean? 8 <b>A. That's right. So where a claim is intimated that isn't</b> 9 <b>pursued, for whatever reason; often we won't know.</b> 10 Q. I think also in that column we see reference to 11 "pre-action" as the claim status. What does that mean? 12 <b>A. That's where a claim has been intimated, a letter of</b> 13 <b>claim received and we are in the preliminary stages</b> 14 <b>before the claim is actually issued in court.</b> 15 Q. Not on this page, but further down that column, there is 16 a reference to the claim being struck out. What does 17 that mean? 18 <b>A. I don't know the particular one, but generally that's</b> 19 <b>probably because the claim proceeded to trial and the</b> 20 <b>judgment was entered for the defendant.</b> 21 Q. So that would signify a legal decision of some kind in 22 relation to that particular claim? 23 <b>A. That's right.</b> 24 Q. There's also, although, again, not on this page, 25 reference to the claim being closed.</p> <p style="text-align: center;">Page 56</p>

1 **A. Yes. So sometimes, although a claim has been intimated,**  
 2 **we have received correspondence, perhaps from the**  
 3 **claimant's solicitors. After a while, things go quiet**  
 4 **and we don't hear any more, and after a period -- it**  
 5 **might be six or 12 months, depending -- insurers will**  
 6 **decide to close the file. So it is not a claim that's**  
 7 **been discontinued, we haven't been informed that the**  
 8 **claimant doesn't wish to proceed with their claim,**  
 9 **there's just been silence.**  
 10 Q. If we go back to our line 1, we can see reference to the  
 11 column -- "Year concluded" probably speaks for itself.  
 12 Is that whether it's settled, discontinued, struck out?  
 13 **A. When it's resolved finally.**  
 14 Q. "Claimant funding" relates to how the claimant is  
 15 funded. We probably don't need to deal with that  
 16 column. "Total paid". This is paid out by the  
 17 insurance company?  
 18 **A. That's right, yes.**  
 19 Q. We can see, in this case, £60,440. Then have you broken  
 20 down thereafter how much was paid to the defence -- is  
 21 that right?  
 22 **A. That's right, yes. Defence costs, claimant costs and**  
 23 **damages all total --**  
 24 Q. Defence costs would be paid to whom?  
 25 **A. So defence costs would be the solicitors instructed by**

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1 since January 2019?  
 2 **A. Yes. So according to our latest records, there have**  
 3 **been another four claims made since January this year.**  
 4 Q. Then --  
 5 **A. I should add, I'm sorry, that of course that doesn't**  
 6 **include the Diocese of Hexham and Newcastle or**  
 7 **Birmingham. I don't know whether they will have**  
 8 **received any.**  
 9 Q. Can we have a brief look, please, at CHC001881. This is  
 10 a schedule you have compiled in relation to claims made  
 11 against orders. It has 48 entries on it, in total.  
 12 Again, same columns, I think, predominantly going across  
 13 the top. I presume, does this schedule in relation to  
 14 the orders also relate to the records where available?  
 15 **A. Yes.**  
 16 Q. Again, was this compiled as at January 2019?  
 17 **A. Yes, it was.**  
 18 Q. Is there any updated figure in relation to claims  
 19 since January made against the orders?  
 20 **A. Yes, there is one.**  
 21 Q. Chair, in due course, both of those schedules are going  
 22 to be published in full so people can analyse the facts  
 23 and figures where they are available and interpret any  
 24 information they want from those two schedules:  
 25 Can I take that image off the screen, please, and

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1 **insurers to defend the claim.**  
 2 Q. And claimant costs would be to their solicitors to bring  
 3 the claim. And then the damages paid would be the  
 4 damages actually received by the claimant?  
 5 **A. Yes.**  
 6 Q. Now, you can see, just looking at this page on screen,  
 7 that some of the "Total paid" and the figures columns  
 8 are not filled in. Why are you unable to provide the  
 9 total paid or any of the costs and damages paid?  
 10 **A. So there are two reasons: one, where claims are ongoing,**  
 11 **clearly those figures can't be provided because they are**  
 12 **not yet known and then, for cases which have concluded**  
 13 **in one way or another and those columns are still blank,**  
 14 **simply because we don't have the records. So this may**  
 15 **be cases, as I explained earlier, where CIS or our**  
 16 **predecessor body, CCIA, wasn't involved, so we don't**  
 17 **have records, we are relying on information given to us,**  
 18 **for example.**  
 19 Q. Does it come to this, that you compiled this schedule as  
 20 at, I think, January 2019?  
 21 **A. Yes.**  
 22 Q. At which point you were able to ascertain there were 435  
 23 claims as far as the records were able to indicate?  
 24 **A. Mmm-hmm.**  
 25 Q. Can you help us with the number of claims made

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1 turn now to abuse claims themselves. Ms Perrin, if it  
 2 helps you, I am turning to paragraph 11 in your  
 3 statement. I think it is important to just understand  
 4 a little bit about how insurance cover works, and then  
 5 how a claim is actually handled in the context of  
 6 a child sexual abuse claim.  
 7 I think you said this at your paragraph 11:  
 8 "Insurance cover for claims arising out of child  
 9 sexual abuse is contained within the diocese's public  
 10 liability insurance policies."  
 11 Can you just help us in layman's terms, what does  
 12 that mean?  
 13 **A. So a public liability insurance policy covers claims**  
 14 **made against an organisation by third parties, where**  
 15 **either they have been harmed or they have suffered**  
 16 **damage to their property as a result of that**  
 17 **organisation's activities. So a claim for child abuse**  
 18 **is a species of personal injury claim and, therefore,**  
 19 **would be covered under a public liability policy.**  
 20 Q. You say that public liability policies are typically  
 21 written on what's called a claims occurring basis. Help  
 22 us with that the claims occurring basis means?  
 23 **A. So a policy written on a claims occurring basis covers**  
 24 **claims which arise out of events that happen during the**  
 25 **lifetime of the policy. So if you have a policy which**

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<p>1 starts on 1 January 2019 and runs for 12 months to                  2 31 December 2019, a claims occurring policy will cover                  3 any event which happens during that year, regardless of                  4 when the claim is made. So the claim may be made                  5 10 or 20 years later, but that policy will still respond                  6 to the claim.</p> <p>7 Q. I think you gave an example in your statement at                  8 paragraph 11 that if a claim is made in respect of abuse                  9 which occurred in the 1960s, it is the public liability                  10 policy in place in the '60s that will cover the claim,                  11 even if the claim is not made until 2019. Is that                  12 right?</p> <p>13 A. Yes. Yes, that's right. If it is a claims occurring                  14 policy.</p> <p>15 Q. Can I ask, what practical effect does that have on the                  16 fact that the claim is made now if the alleged abuse                  17 occurred many, many years ago?</p> <p>18 A. It presents real challenges. First of all, the                  19 organisation concerned has to be able to identify who                  20 its insurers were in the 1960s. You know, many                  21 organisations just didn't realise they had to keep their                  22 records for this long. So there's a real lack of                  23 records and it is a real struggle to identify who the                  24 insurers were.</p> <p>25 If an organisation manages to identify their</p> <p style="text-align: center;">Page 61</p>	<p>1 insurers and produce enough evidence to satisfy insurers                  2 that they were on risk, as we call it, that they did                  3 provide cover at that time, there's then the challenge                  4 that policy limits can be quite low. For example,                  5 a policy written in the 1960s may have cover for £10,000                  6 any one claim. That was a lot of money then. It                  7 doesn't go that far now. So there are challenges.</p> <p>8 Q. In that last example, where perhaps the cover was                  9 £10,000 but the claim is made in 2019, how does one deal                  10 with the fact that the cover is so low in comparison                  11 with the claims and the figures involved in cases these                  12 days?</p> <p>13 A. The first thing to say is that the £10,000 is typically,                  14 not always, the limit for damages, and so costs will be                  15 payable in addition. So that makes things slightly                  16 easier, where that's the case.</p> <p>17 But if the limit is low and is not sufficient to pay                  18 the costs and damages of a claim, then the organisation                  19 has to use its own funds.</p> <p>20 Q. So in the example we looked at in relation to Father                  21 Eugene Fitzpatrick in that first line on the dioceses                  22 schedule, the claim in that case was paid out £35,000.                  23 If I follow you right, if the limit of the cover was                  24 only £10,000, the diocese, I think it was of                  25 Westminster, would be responsible for making up the</p> <p style="text-align: center;">Page 62</p>
<p>1 £25,000 shortfall?</p> <p>2 A. That's right.</p> <p>3 Q. Understood.</p> <p>4 A. That is, unless they have retrospective insurance.</p> <p>5 Q. I'm coming on to that. Let's look at retrospective                  6 liability. To try to deal with the position where                  7 insurers can't be ascertained, help us, please, with                  8 what retrospective liability is?</p> <p>9 A. Retrospective liability cover or retro cover, as we                  10 refer to it, helps organisations in two circumstances.                  11 Firstly, if they're unable to find who their insurers                  12 were at the time of the abuse in a particular claim, or                  13 where they have found their insurers but, as we say, the                  14 policy limits are too low and not sufficient to cover                  15 the full costs of that claim.</p> <p>16 The retro cover will then either cover the costs of                  17 the claim instead of the original policy, where the                  18 policy can't be found, or it will act as a top-up, and                  19 it will pay any shortfall which is left after the                  20 original policy has provided the cover.</p> <p>21 Q. Do all of the 20 dioceses that CIS now assists with have                  22 retrospective liability?</p> <p>23 A. 19 of them do. The Diocese of Clifton, having just                  24 joined, isn't eligible for that cover until after three                  25 years of being within our scheme.</p> <p style="text-align: center;">Page 63</p>	<p>1 Q. So 19 out of the 20 do, and not so the Diocese of                  2 Clifton since they have recently joined?</p> <p>3 A. Yes.</p> <p>4 Q. I think you said in your statement that retrospective                  5 liability works on a slightly different basis, on what's                  6 called the claims made basis.</p> <p>7 A. Yes.</p> <p>8 Q. You have told us about claims occurring. Help us with                  9 claims made?</p> <p>10 A. So claims made is probably -- it sort of does what it                  11 says on the tin, in the sense that it covers claims made                  12 during the lifetime of the policy. So, again, if we use                  13 the year 2019, if you have got a policy that covers this                  14 calendar year, then a claims made policy will respond to                  15 any claim made during this year regardless of when the                  16 harm is alleged to have been suffered.</p> <p>17 So in that way, the retrospective liability policy                  18 will cover a claim for abuse in 1960 if it is made in                  19 2019.</p> <p>20 Q. What is the position, Ms Perrin, though, if there is no                  21 insurance in place or the insurers can't be identified                  22 and there is no retrospective liability? Who is                  23 responsible then for paying out on a claim?</p> <p>24 A. The organisation itself. I should add that the                  25 retrospective liability cover is quite limited, so it's</p> <p style="text-align: center;">Page 64</p>



<p>1 <b>perfectly conceivable that that could be exhausted. So</b>  2 <b>even with insurance in place, a diocese could end up</b>  3 <b>having to pay some shortfall.</b>  4 Q. If the organisation doesn't have the funds to pay,  5 presumably the claimant won't receive any money?  6 <b>A. That's right.</b>  7 Q. Or if the organisation doesn't exist any longer? It  8 doesn't apply in relation to the dioceses, but some of  9 the orders are very, very small and, indeed, now no  10 longer exist. The claimant won't receive any money in  11 that scenario either.  12 In relation to the 20 or so orders that are  13 currently using CIS, do they have retrospective  14 liability?  15 <b>A. A handful of them do. I would have to check the precise</b>  16 <b>figures. But only, I think, three or four.</b>  17 Q. Now, I'd like, if we are able, to deal with the actual  18 handling of the claim itself, and some wordings of  19 the policies. It might help if I can call up on screen,  20 I hope, CHC001877. Chair, I'm looking at Ms Perrin's  21 paragraph 20 in her statement. Can we turn, please, to  22 page 4. At the bottom of the page, I want to look at  23 two clauses, the first of which is the notice of claims  24 clause in the current CIS scheme public liability policy  25 with Zurich, who is the insurer that CIS works with:</p> <p style="text-align: center;">Page 65</p>	<p>1 "Notice of claims.  2 "The insured shall give notice in writing to the  3 insurer as soon as possible after the occurrence of any  4 event likely to give rise to a claim with full  5 particulars thereof. The insured shall also, on  6 receiving verbal or written notice of any claim,  7 intimate or send the same or a copy thereof immediately  8 to the insurer and shall give all necessary information  9 and assistance to enable the insurer to deal with,  10 settle or resist any claim as the insurer may think fit.  11 Such information and assistance shall be given without  12 any delay ..."  13 Does it come to this, that the diocese must notify  14 the insurer straight away?  15 <b>A. Yes, that's right, as soon as they are aware of anything</b>  16 <b>which could give rise to a claim.</b>  17 Q. Is there any guidance given about how quickly that  18 notification should be made: within 24 hours, 48 hours,  19 a week?  20 <b>A. No, there is no guidance given by the insurers. The</b>  21 <b>guidance that we give to the diocese is to say, "In this</b>  22 <b>context, in the context of abuse claims, obviously the</b>  23 <b>first thing is to make sure that there is no risk still,</b>  24 <b>so reporting to statutory authorities, et cetera, comes</b>  25 <b>first. Once that's all been dealt with, then pick up</b></p> <p style="text-align: center;">Page 66</p>
<p>1 <b>the phone to CIS or to insurers".</b>  2 Q. Are you aware of any cases where the dioceses have  3 failed to notify the insurer straight away and,  4 therefore, not been paid out under the insurance policy?  5 <b>A. I am aware of cases where insurers haven't been notified</b>  6 <b>straight away. I am not aware of a case where that has</b>  7 <b>yet led to the refusal of an indemnity. There have been</b>  8 <b>challenges by some insurers because the first part of</b>  9 <b>this condition, "The insured shall give notice as soon</b>  10 <b>as possible after the occurrence of any event", what we</b>  11 <b>are talking about is after the abuse. So insurers will</b>  12 <b>say, "This is a claim for abuse in the 1960s. We ought</b>  13 <b>to have been told about this in the 1960s", so there is</b>  14 <b>a whole process which has to be gone through to explain</b>  15 <b>that, actually, the insured didn't know about this in</b>  16 <b>the 1960s and to explain when they did first know.</b>  17 Q. Or may not have been able to report it until many, many  18 years later for all sorts of reasons. We will perhaps  19 look at those a little bit later on.  20 In the event of CIS becoming aware that dioceses  21 weren't reporting straight away, would you play any sort  22 of intermediary role in trying to encourage them to  23 report?  24 <b>A. Yes, certainly, that's part of our sort of risk</b>  25 <b>management role for the dioceses and the failure to</b></p> <p style="text-align: center;">Page 67</p>	<p>1 <b>report does present a risk of jeopardy to their</b>  2 <b>insurance indemnities, so we would encourage that, yes.</b>  3 Q. In practical terms, do you know who it is in the diocese  4 who actually should notify either CIS or the insurer?  5 <b>A. There is some variance but, generally, it's the person</b>  6 <b>in the role of the financial secretary or the chief</b>  7 <b>operating officer who would be notifying us.</b>  8 Q. So this does not tend to be a responsibility that lands  9 on the safeguarding coordinator?  10 <b>A. No, it doesn't. That's partly, I think, because of our</b>  11 <b>input into that. We felt that it was right to separate</b>  12 <b>off the role of the insurance-, sort of, facing role, if</b>  13 <b>you like, and the victim-facing role.</b>  14 Q. Can we turn to page 5 in this document, and the control  15 of claims clause. It says there:  16 "The insured shall not, except at his own cost, take  17 any steps to compromise or settle any claim or admit  18 liability without specific instructions in writing from  19 the insurer nor give any information or assistance to  20 any person claiming against him, but the insurer shall,  21 for so long as they shall so desire, [have] the absolute  22 conduct and control of all proceedings (including  23 arbitrations) in respect of any claims for which the  24 insurer may be liable under this policy ..."  25 I won't read out the rest. It can be seen by all.</p> <p style="text-align: center;">Page 68</p>

1 Putting it into layman's terms, what does the claims  
 2 control condition mean?  
 3 **A. It means that the insurers have control of the claims.**  
 4 **So the insurers are the primary decision makers.**  
 5 Q. When a claim is brought to CIS' and the insurers'  
 6 attention, hopefully straight away, as per the notice of  
 7 claims condition, what does the insurer then actually do  
 8 to try to take steps to deal with the claim?  
 9 **A. So with this type of litigation, they would immediately**  
 10 **appoint solicitors and those solicitors would then**  
 11 **obtain all the relevant information. Often there is not**  
 12 **very much, but whatever is available. And would then**  
 13 **investigate the facts of the claim and provide their**  
 14 **advice to insurers.**  
 15 Q. So the solicitors advise the insurers, and do I take it  
 16 then the insurers advise the dioceses?  
 17 **A. No. So the solicitors will advise the insurers. The**  
 18 **insurers will decide, on the basis of that advice, how**  
 19 **they wish to handle the claim and the solicitors would**  
 20 **then advise me, usually, what the approach to the claim**  
 21 **is going to be and I would then liaise with the dioceses**  
 22 **to ensure that they were content with that.**  
 23 Q. But do I understand what you say and the control of  
 24 claims to be, effectively, it's the insurers who are the  
 25 ones who have the ultimate say in how the claims should

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1 **Dioceses are charities -- I believe you have heard from**  
 2 **the Charity Commission -- and they have duties in**  
 3 **charity law regarding the protection of their assets and**  
 4 **their funds. So it isn't a simple and straightforward**  
 5 **decision for a diocese to walk away from an insurance**  
 6 **indemnity because the only funds then left available to**  
 7 **pay a claim are charitable funds.**  
 8 Q. I asked you about effectively dioceses falling in line  
 9 with the insurer's approach. What about the other way  
 10 around? Have you had experience where, in fact,  
 11 a diocese has pressed for an approach and the insurers  
 12 have changed their mind as to their stance?  
 13 **A. Yes, certainly, I can think of one example where a draft**  
 14 **defence was sent by the solicitors appointed by the**  
 15 **insurers to myself and the diocese for approval, and for**  
 16 **the diocese then to sign, and that defence included**  
 17 **provisions raising the defence of consent in**  
 18 **a non-recent abuse claim. I could see no justification**  
 19 **for including that defence in the claim, either within**  
 20 **the pleading -- the defence itself or within the**  
 21 **covering paperwork we'd received from the solicitors,**  
 22 **and so I advised the diocese to challenge that, and they**  
 23 **did so, and it was removed from the defence.**  
 24 **So although the insurers ultimately have control,**  
 25 **there's certainly a lot of challenge and scrutiny that**

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1 be approached?  
 2 **A. Yes, that's right. If the diocese wants to rely on the**  
 3 **insurance indemnity, wants to benefit from that**  
 4 **financial protection, then they have to go along with**  
 5 **what the insurers want to do, how they want to handle**  
 6 **the claim.**  
 7 Q. So if a diocese wanted to settle a claim but the  
 8 insurers did not want to take that approach, ultimately,  
 9 the diocese would have to follow the insurer's approach  
 10 if they wanted to be indemnified under the insurance  
 11 policy?  
 12 **A. Yes, that's right.**  
 13 Q. Have you had any experience where there has been  
 14 a fundamental disagreement between the diocese and the  
 15 insurer over how the claim should be dealt with?  
 16 **A. I'm certainly aware of cases where there have been**  
 17 **disagreements, but not of a case where there's been such**  
 18 **a disagreement that actually the diocese has walked away**  
 19 **from the insurance indemnity.**  
 20 Q. Do you think, Ms Perrin, there is a tension, therefore,  
 21 that when it comes to money ultimately, which is what  
 22 this is about, the dioceses have a tendency to go along  
 23 with the insurer's approach so they don't have to pay  
 24 out of their own funds?  
 25 **A. It's certainly a consideration that dioceses have.**

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1 **goes on on the part of the dioceses, assisted by myself,**  
 2 **to ensure that what the insurers are doing is**  
 3 **appropriate, even if the diocese isn't always**  
 4 **100 per cent comfortable with it.**  
 5 Q. I think you just alluded there, really, on your role in  
 6 all of this. I just want to be clear, where there is  
 7 a claim being brought against a diocese, who is it that  
 8 you ultimately act for?  
 9 **A. I act for the diocese. My client is the diocese.**  
 10 Q. I'd like to look at some of the guidance that is issued  
 11 in relation to trying to deal with claims in relation to  
 12 child sexual abuse. If it helps you, Ms Perrin, I'm  
 13 looking at paragraphs 27 onwards in your statement.  
 14 I think you say that, by way of background, in 2007,  
 15 which is the year of the Cumberlege Report, the tensions  
 16 between the desire to provide a meaningful pastoral  
 17 response to victims and survivors and taking action  
 18 which could compromise the dioceses' legal position came  
 19 to the fore, and Cumberlege asked the CCIA, as it then  
 20 was, to produce a set of protocols addressing this.  
 21 I think in 2010, is that right, there were some  
 22 guidelines that were revised but remain in force as at  
 23 today?  
 24 **A. Well, they certainly haven't been updated since 2010.**  
 25 **Whether they're used very much currently, I don't**

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<p>1 <b>believe so.</b></p> <p>2 Q. Can we have a look at them, and then perhaps we will</p> <p>3 deal with them in practical terms. May we firstly look</p> <p>4 at the guideline at CHC001879, which, chair, should be</p> <p>5 behind your tab B/1. These are guidelines for</p> <p>6 Catholic Church organisations responding to complaints</p> <p>7 of abuse where there is legal action intimated. So is</p> <p>8 that either a letter of claim or the claimant has said,</p> <p>9 "I'm thinking about suing you"; something of that</p> <p>10 nature?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. If we turn to page 4 of the document, please, at 1.3 we</p> <p>13 will see there:</p> <p>14 "The aim of this guidance is to ensure that the</p> <p>15 church is able to discharge its pastoral responsibility</p> <p>16 to respond quickly and effectively to any complaint made</p> <p>17 in a way that does not compromise the church's legal or</p> <p>18 insurance position so that legitimate and proven claims</p> <p>19 that may arise can be met."</p> <p>20 So that's the aim of the document. If we look at</p> <p>21 some of the detail in it, perhaps at page 6, can we see</p> <p>22 paragraph 3.4, reference there to the claims control</p> <p>23 condition and reminding the reader of this document that</p> <p>24 indemnity is likely to be refused if an organisation</p> <p>25 takes steps to compromise or settle a claim or makes an</p> <p style="text-align: center;">Page 73</p>	<p>1 admission of liability, an offer or promise of payment</p> <p>2 without the prior written consent of its insurers?</p> <p>3 This document, in its entirety, who was it aimed at?</p> <p>4 <b>A. So it was really drafted for the benefit or use of</b></p> <p>5 <b>dioceses, so there are two primary roles within the</b></p> <p>6 <b>dioceses: the safeguarding coordinator role; and the</b></p> <p>7 <b>so-called insurance officer role, within the guidance.</b></p> <p>8 <b>So it was primarily for their guidance, but obviously</b></p> <p>9 <b>the diocesan trustees, being the governing body of</b></p> <p>10 <b>the dioceses, would have had access to it.</b></p> <p>11 Q. Do you know, was this guidance made available on</p> <p>12 a website so that a layperson or someone thinking about</p> <p>13 bringing a claim could access it?</p> <p>14 <b>A. No, I don't believe it was.</b></p> <p>15 Q. So it was an internal document, if you like?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. If we look at page 7 at paragraph 4.2, I think it makes</p> <p>18 clear there that the claim should be notified to the</p> <p>19 insurance officer within 24 hours, but that's not the</p> <p>20 same thing, is it, as it being notified to CIS or the</p> <p>21 insurer?</p> <p>22 <b>A. No, quite, that's an internal notification.</b></p> <p>23 Q. At paragraph 4.3.3, which is at the bottom of page 7,</p> <p>24 there is guidance there to the safeguarding coordinator</p> <p>25 that they "shall, as soon as practicable ... formally</p> <p style="text-align: center;">Page 74</p>
<p>1 acknowledge receipt of the complaint in writing to the</p> <p>2 complainant, advising the complainant that because</p> <p>3 he/she has made reference to possible legal action, the</p> <p>4 organisation is obliged to pass the matter to its</p> <p>5 representatives. A pro forma letter is attached at</p> <p>6 appendix 3."</p> <p>7 If we can turn to page 16, I hope that there will be</p> <p>8 the pro forma. Yes. This is a sample letter. If we go</p> <p>9 from the bit where it says "Dear", and you would insert</p> <p>10 the name of the claimant, we can see set out there</p> <p>11 suggested terms for a letter to go back to the claimant</p> <p>12 now that there is the spectre of a civil claim being</p> <p>13 pursued.</p> <p>14 Can I ask you this: do you know, is this pro forma</p> <p>15 still used by safeguarding coordinators?</p> <p>16 <b>A. Not to my knowledge. Although it was used as</b></p> <p>17 <b>a pro forma, certainly the safeguarding coordinators all</b></p> <p>18 <b>have their own style and personality and would adapt</b></p> <p>19 <b>that to suit.</b></p> <p>20 Q. Is it still the intention of CIS, though, to advise the</p> <p>21 safeguarding coordinator to send out a letter where they</p> <p>22 are aware that there may be a claim being made?</p> <p>23 <b>A. I think as a matter of courtesy, to say that the letter</b></p> <p>24 <b>has been acknowledged and is being dealt with. There</b></p> <p>25 <b>can sometimes be a delay between, obviously, the letter</b></p> <p style="text-align: center;">Page 75</p>	<p>1 <b>coming from the safeguarding coordinator to CIS. We</b></p> <p>2 <b>then have to establish who the insurers were at the</b></p> <p>3 <b>relevant time, get the letter to the insurers. They</b></p> <p>4 <b>then have to appoint solicitors. So, you know, that</b></p> <p>5 <b>process can take a little while. So to send an</b></p> <p>6 <b>acknowledgement I think is appropriate.</b></p> <p>7 Q. A failure to send an acknowledgement, though, would not</p> <p>8 lead to any problem as far as the indemnity is</p> <p>9 concerned?</p> <p>10 <b>A. Not at all.</b></p> <p>11 Q. It is really good practice that you were trying to</p> <p>12 advocate in this guidance document?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. If we can go back into the body of the document at</p> <p>15 page 8, and can I look at paragraph 4.5 with you:</p> <p>16 "Unless otherwise agreed by insurers, the</p> <p>17 organisation must not provide the complainant with any</p> <p>18 assistance other than pastoral support whilst the</p> <p>19 complaint is ongoing. Specifically, the organisation</p> <p>20 must not:</p> <p>21 "Provide any financial support or make any payment</p> <p>22 to, or on behalf of, the complainant;</p> <p>23 "Provide the complainant with counselling without</p> <p>24 the consent of the organisation's insurers;</p> <p>25 "Make any concessions, admissions or apologies in</p> <p style="text-align: center;">Page 76</p>

<p>1 respect of matters relating to the complaint."                  2 In practical terms, does this mean, for example,                  3 that a diocese should not provide a complainant with                  4 travel money if they needed to come to see the                  5 safeguarding coordinator?                  6 <b>A. Well, our view would be that they shouldn't be speaking</b>                  7 <b>to the safeguarding coordinator if legal action has been</b>                  8 <b>intimated.</b>                  9 Q. Right.                  10 <b>A. But, in practical terms, what this was trying to achieve</b>                  11 <b>is the protection of the insurance indemnity, but at the</b>                  12 <b>same time a balance. So if the claim is sent to CIS and</b>                  13 <b>then finds its way to insurers, as soon as that has been</b>                  14 <b>done and there are solicitors acting for the insurers</b>                  15 <b>involved, then any request by a victim or survivor for</b>                  16 <b>an apology to be made or for monies of some</b>                  17 <b>description – we have had many and varied requests over</b>                  18 <b>the years, particularly at the time these guidelines</b>                  19 <b>were drawn up, for example, help with rent costs, help</b>                  20 <b>to fund a retraining course, et cetera. All of those</b>                  21 <b>requests could be put to the solicitors acting for the</b>                  22 <b>insurers and agreed or not in the circumstances of</b>                  23 <b>the case.</b>                  24 Q. If I understand you correctly, by the time there is                  25 a legal claim being intimated, effectively, requests on</p> <p style="text-align: center;">Page 77</p>	<p>1 behalf of the claimant should come through the                  2 claimant's solicitors either via you and through to the                  3 diocese or the -- sorry, the insurer's solicitors?                  4 <b>A. Yes.</b>                  5 Q. What about if, in the middle of all that, the victim and                  6 survivor still wants to ask some questions of                  7 the safeguarding coordinator, wants to know if they can                  8 speak to a bishop about the abuse that they say they                  9 have suffered? How does that guidance fit in with what                  10 is being suggested here?                  11 <b>A. I think, at the time these guidelines were drawn up, and</b>                  12 <b>the first draft of these was 2006, the real concern was</b>                  13 <b>the lack of understanding and knowledge, particularly on</b>                  14 <b>the part of the safeguarding coordinators, about the</b>                  15 <b>insurance aspect of these matters. So the safest thing,</b>                  16 <b>from that perspective, was to get the claim to the</b>                  17 <b>solicitors acting for the insurers and to allow all</b>                  18 <b>correspondence to go through that route.</b>                  19 <b>I think over the years now, and we're some sort of</b>                  20 <b>13 years later, that's relaxed to some degree, in the</b>                  21 <b>sense that I know now there is quite a lot of contact</b>                  22 <b>between some safeguarding coordinators and some</b>                  23 <b>claimants. For example, organising counselling, which</b>                  24 <b>will be ongoing at the same time as a claim.</b>                  25 <b>So I think, at that time, it was a certainly more</b></p> <p style="text-align: center;">Page 78</p>
<p>1 <b>rigid approach, and now that the coordinators and other</b>                  2 <b>staff within the dioceses are much more familiar with</b>                  3 <b>the fact that insurers need to be communicated with,</b>                  4 <b>that all works much more flexibly.</b>                  5 Q. Is it still the position, though, that where a legal                  6 claim is intimated, the diocese, or anyone acting on                  7 their behalf, must not make any admission or apology?                  8 <b>A. I would certainly say that is in their interests not to</b>                  9 <b>make any admission or apology unless they have spoken to</b>                  10 <b>insurers and agreed that with them, and often that is</b>                  11 <b>agreed. There are cases in which it is quite clear that</b>                  12 <b>it's right and proper for an apology to be given.</b>                  13 <b>Insurers will recognise that and the apology will be</b>                  14 <b>made.</b>                  15 Q. So it is more a case of getting the consent of                  16 the insurer to make an apology rather than a blanket ban                  17 on making an apology?                  18 <b>A. Absolutely.</b>                  19 Q. Can I look at the guidance where there is no legal                  20 action intimated and call up on screen, please,                  21 CHC001878. Chair, this is behind your tab B/2. I want                  22 to look at the section in relation to apologies here,                  23 which I think you will find at paragraph 6. So it's                  24 page 13. Where a complainant comes to the church but is                  25 not indicating that they want to pursue a civil claim,</p> <p style="text-align: center;">Page 79</p>	<p>1 this guidance ought to be followed, although, again, do                  2 I understand you to be saying the fact it's perhaps been                  3 relaxed a great deal does not follow so much in current                  4 times?                  5 <b>A. Yes, that's right.</b>                  6 Q. But nonetheless, the guidance states that the                  7 complainant should, wherever possible, be assured the                  8 organisation has current safeguarding procedures and                  9 policies in place to protect children and young people                  10 and vulnerable adults, and then set out there at the                  11 rest of paragraph 6 in the bullet points some guidance                  12 about potentially issuing an apology where there are                  13 criminal convictions relevant to the complainant's                  14 allegations, or where the allegations have been admitted                  15 by the perpetrator.                  16 6.3:                  17 "Where the alleged perpetrator is deceased and no                  18 admission by the perpetrator was made or conviction of                  19 the perpetrator was secured, it is usually not                  20 appropriate to provide any admission or apology to the                  21 complainant in direct response to the complaint made."                  22 Ms Perrin, can I ask you about that? 6.3 is not an                  23 uncommon scenario here in respect of historical child                  24 sexual abuse claims, where often there can't be                  25 a criminal case pursued and, indeed, the perpetrator is</p> <p style="text-align: center;">Page 80</p>

<p>1 dead by the time the report is made to the diocese. Why</p> <p>2 does it say there it is usually not appropriate to</p> <p>3 provide any admission or apology in response to the</p> <p>4 complaint made?</p> <p>5 <b>A. In direct response to the complaint made, yes,</b></p> <p>6 <b>absolutely. The diocese or other organisation would</b></p> <p>7 <b>need an opportunity to investigate that complaint. If</b></p> <p>8 <b>there is no objective evidence of the abuse having taken</b></p> <p>9 <b>place, again, there's the potential for an admission or</b></p> <p>10 <b>an apology to impact the insurance indemnity in those</b></p> <p>11 <b>circumstances.</b></p> <p>12 Q. I think we come down then to 6.5 and, effectively, the</p> <p>13 claims control condition. Again:</p> <p>14 "It should not be admitted ..."</p> <p>15 And you can see the final line of that sentence:</p> <p>16 "... without prior approval by insurers."</p> <p>17 Again, not saying you can't apologise, but you must</p> <p>18 do it with the written consent of the insurers.</p> <p>19 Can you help us practically how long it takes to get</p> <p>20 a discussion about apologies -- the diocese wants to</p> <p>21 make one, asks the insurer if they can make one and then</p> <p>22 wants to feed that back and actually apologise to the</p> <p>23 victim. How long does that take?</p> <p>24 <b>A. From the diocese contacting me and me then liaising with</b></p> <p>25 <b>insurers, that can be done the same day.</b></p> <p style="text-align: center;">Page 81</p>	<p>1 Q. Oh.</p> <p>2 <b>A. It may be done the next day, if there is, you know,</b></p> <p>3 <b>annual leave and all that sort of thing. But generally,</b></p> <p>4 <b>it's within 24 hours. It's really straightforward.</b></p> <p>5 <b>Insurers are very used to receiving these requests and</b></p> <p>6 <b>analysing the facts.</b></p> <p>7 Q. In your experience now, looking at it from 2019, do you</p> <p>8 frequently receive requests from a diocese to ask the</p> <p>9 insurers to consent to apologies being made,</p> <p>10 irrespective of whether the civil claim is intimated or</p> <p>11 not?</p> <p>12 <b>A. I wouldn't say frequently. But I'd say probably between</b></p> <p>13 <b>6 and 12 a year.</b></p> <p>14 Q. Let me ask you this: you told us, I think, there were</p> <p>15 four claims since January 2019 against dioceses. In any</p> <p>16 of those four claims, has there been a request of</p> <p>17 the insurer to allow the diocese to make an apology?</p> <p>18 <b>A. I couldn't tell you that without checking the records.</b></p> <p>19 Q. If that's something we want you to undertake, will you</p> <p>20 be able to undertake that task for us?</p> <p>21 <b>A. Of course.</b></p> <p>22 Q. Just finally dealing with this document perhaps before</p> <p>23 we break for lunch, can I turn to page 14 in the</p> <p>24 guidance for legal action not intimated, and</p> <p>25 paragraph 7, dealing with pastoral support and</p> <p style="text-align: center;">Page 82</p>
<p>1 counselling, the guidance there says that pastoral</p> <p>2 support may be provided by an appropriate representative</p> <p>3 of the organisation to the complainant:</p> <p>4 "Such support should not include the provision of</p> <p>5 formal counselling for the complainant ... and should</p> <p>6 not involve financial expenditure ... but should simply</p> <p>7 consist of such routine pastoral support as is within</p> <p>8 the organisation's usual pastoral responsibilities."</p> <p>9 What practically, then, was the support that was</p> <p>10 being envisaged if it is not going to be either</p> <p>11 financial or potentially for some counselling?</p> <p>12 <b>A. In some cases, victims and survivors would appreciate</b></p> <p>13 <b>a priest being available to speak to them on</b></p> <p>14 <b>a consistent basis and to support them through a period</b></p> <p>15 <b>of time.</b></p> <p>16 Q. I think 7.2 makes the point there that if there is</p> <p>17 a request for counselling, that, again, is something</p> <p>18 that must be approved by the insurance officer. Again,</p> <p>19 not a blanket, "No, you can't have counselling", but is</p> <p>20 this something that requires the consent of the insurer?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Again, help us with, are you receiving frequent requests</p> <p>23 for insurers to approve counselling?</p> <p>24 <b>A. This is something that's really become quite</b></p> <p>25 <b>straightforward over time. The insurers' position</b></p> <p style="text-align: center;">Page 83</p>	<p>1 <b>almost uniformly now is that they are happy for</b></p> <p>2 <b>counselling to be offered, that it should be done on</b></p> <p>3 <b>a without prejudice basis and that they will not</b></p> <p>4 <b>contribute to the costs, but routinely they will agree</b></p> <p>5 <b>in those circumstances there's no issue.</b></p> <p>6 <b>In terms of how frequently that's being asked for by</b></p> <p>7 <b>victims and survivors of dioceses, yes, that's a very</b></p> <p>8 <b>frequent request:</b></p> <p>9 Q. Which brings me on to paragraph 8 on page 15 in this</p> <p>10 document. In relation to financial support:</p> <p>11 "The organisation must not offer to the complainant</p> <p>12 any financial payment of any kind, including payment for</p> <p>13 the costs of medical treatment, assistance with</p> <p>14 household expenses, education or training, because of</p> <p>15 the risk that any such offers may be deemed to imply an</p> <p>16 admission of liability."</p> <p>17 I think, again, the position goes on to say that</p> <p>18 prior approval must be obtained. You have told us that</p> <p>19 counselling is quite a frequent request these days.</p> <p>20 What about financial payment for the other kind of</p> <p>21 costs -- medical treatment or assistance with education</p> <p>22 and training?</p> <p>23 <b>A. There are far fewer of those requests being made.</b></p> <p>24 <b>Counselling, as I say, is very frequent. But when these</b></p> <p>25 <b>guidelines were drawn up, we would routinely receive</b></p> <p style="text-align: center;">Page 84</p>

<p>1 requests not always for financial expenditure, but for                  2 things, for example, the planting of a tree or the                  3 removal of a plaque from a church or some sorts of                  4 requests of that nature. That's really not happening                  5 a lot these days at all. So it's counselling,                  6 apologies, or a claim.                  7 Q. Final matter on this document, over the page to page 16,                  8 something that we haven't heard much about before is                  9 what's called here a resolution meeting. Help us with                  10 what a resolution meeting is?                  11 A. So, again, at the time these were drafted, quite a few                  12 victims and survivors would seek to meet with the                  13 diocese and really to explore how the diocese could help                  14 them.                  15 So a lot of victims and survivors tell us that they                  16 don't want financial payments, you know, they don't want                  17 to make a claim for compensation. But they want                  18 something. And I think often they're not sure what, and                  19 a resolution meeting was a way of the parties coming                  20 together to talk, to show support for the victim and                  21 survivor and to explore, you know, what may assist them.                  22 Q. Are there many resolution meetings that you're aware of                  23 now in 2019?                  24 A. No. No, I can't recall the last time that I was aware                  25 of one.</p> <p style="text-align: center;">Page 85</p>	<p>1 Q. Can you help with why there's been a drop-off or a lack                  2 of requests for resolution meetings?                  3 A. No, I can't.                  4 Q. In your time working for CCIA, now CIS, have you had any                  5 direct contact with victims and survivors to learn about                  6 their perspective on what's happened to them and how                  7 they would like their claims to be handled and how they                  8 would like the dioceses to handle the reports they have                  9 made?                  10 A. I have certainly benefited from contact with the SAP,                  11 the Survivors Advisory Panel, which is run by the NCSC.                  12 Obviously, I participate in NCSC meetings and events.                  13 MS CAREY: Ms Perrin, I think that might be a convenient                  14 moment to break before we turn to, perhaps, future                  15 guidelines this afternoon and some other matters before                  16 we conclude. Thank you very much.                  17 (1.00 pm)                  18 (The short adjournment)                  19 (2.00 pm)                  20 THE CHAIR: Ms Carey?                  21 MS CAREY: Thank you, chair. Ms Perrin, I have just been                  22 asked to clarify two matters in relation to evidence you                  23 gave before lunch. Firstly, this: I asked you before                  24 lunch time if you frequently received requests from                  25 a diocese to ask the insurers to consent to making an</p> <p style="text-align: center;">Page 86</p>
<p>1 apology, and you said, "I wouldn't say frequently, I'd                  2 say between 6 and 12 a year."                  3 Out of that 6 and 12, can you help how frequently                  4 the request is granted and apologies are, in fact, made?                  5 A. Almost always. I think there can be some toing and                  6 froing in terms of the actual wording, but almost always                  7 it's agreed.                  8 Q. The other matter is this: have you got experience of                  9 the diocese delegating control of the claims effectively                  10 to the insurer's solicitors and saying, effectively, "We                  11 will go along with whatever advice you give us"?                  12 A. No. I think it would be fair to say, in the earlier                  13 years of this litigation, the dioceses relied more on                  14 the advice from the solicitors and were almost told more                  15 what was going to happen and challenged less. I think,                  16 as the dioceses have grown more confident, more                  17 understanding of the legal issues involved, then they                  18 have challenged more.                  19 Q. When do you think there's been that -- if you can give                  20 us a timeframe, when has there been that sea change of                  21 approach?                  22 A. I wouldn't describe it as a sea change. It was                  23 a gradual process, I think. Just like with other                  24 organisations over the years, the dioceses have become                  25 more tightly governed, should I say, have had</p> <p style="text-align: center;">Page 87</p>	<p>1 involvement on their boards of trustees, for example,                  2 and in some of the senior roles, like the financial                  3 secretary, those who have come from industry and so are                  4 more able to get involved in these issues and to                  5 question and challenge.                  6 Q. I'd like to turn, please, to future guidelines and                  7 looking, really, at your paragraph 32. Before lunch,                  8 clearly we were looking at both the guidelines for where                  9 there is a legal claim intimated and where there isn't,                  10 and they were guidelines that hadn't been revised since                  11 2010. I think you say in your statement that, as you                  12 told us this morning, the guidelines aren't strictly                  13 followed now because the dioceses have become well used                  14 to managing these claims, and you say that since you                  15 joined CCIA, as it was in 2010, "dioceses call me                  16 directly to seek advice", and since Dr Limbrick has been                  17 appointed the director of CSAS in 2015, there has been,                  18 you say, very effective communication and consultation                  19 between CIS and CSAS. Can you give us an example of                  20 what you would term as very effective communication                  21 between you and CSAS?                  22 A. I think in the past there have been some difficulties                  23 caused when CSAS issued policies and procedures which                  24 hadn't taken into account the insurance aspects of                  25 claims or, indeed, the charity law aspects, for example.</p> <p style="text-align: center;">Page 88</p>

<p>1 That was slightly frustrating, in that if there had been  2 collaboration prior to the policies being issued, those  3 aspects could have been dealt with, and with Dr Limbrick  4 it is a standing sort of item that whenever CSAS are  5 producing a new policy, she will run it past me and ask,  6 you know, whether there are any angles that she needed  7 to be aware of from a legal perspective.</p> <p>8 Q. I think one of the things that is now happening with  9 respect to CSAS is that, in November 2018, the prospect  10 of having new guidelines for the handling of abuse  11 claims was discussed at a meeting organised by Abbot  12 Christopher Jamison and it was agreed that there would  13 be a need for such guidance to be incorporated within  14 the national safeguarding policies. I think you say  15 that Dr Limbrick of CSAS has asked you to produce draft  16 claims handling guidelines?</p> <p>17 A. Yes.</p> <p>18 Q. Help us, please, that's nearly now a year ago. What is  19 the position with the draft guidelines?</p> <p>20 A. So it is a long process because there are a lot of  21 interested parties, as you can imagine, and we want to  22 produce something which, as far as possible, all parties  23 are happy with. So Dr Limbrick asked me to produce the  24 first draft. I did that, and that's been backwards and  25 forwards between myself and CSAS and the solicitors who</p> <p style="text-align: center;">Page 89</p>	<p>1 routinely act for a range of insurers on these matters.  2 We now have a draft which has been sent for  3 consultation to diocesan financial secretaries and also  4 to the safeguarding coordinators. There's a meeting of  5 the coordinators later this month, at which that will be  6 discussed. I am attending. One of the things is to  7 talk about that and to try to then finalise something  8 which all those groups are content with, and then there  9 will be further consultation in particular with the NCSC  10 and the SAP.</p> <p>11 Q. Is it envisaged that the guidelines will be split, as  12 they are now, into guidelines for where there is a legal  13 action intimated and where there isn't?</p> <p>14 A. No. The guidelines, as it stands, are specifically for  15 the situation where a legal action is intimated, claims  16 handling guidelines, as it were.</p> <p>17 Q. I'm asked to ask you this: will the guidelines advise  18 complainants that they can seek legal advice if they  19 think that's something they would like to do?</p> <p>20 A. Absolutely. We have always advised complainants that  21 they should seek legal advice if they wish to make  22 a claim, and we provide them with the website address  23 for the Association of Child Abuse Lawyers as at least  24 a starting point where they can get some advice.</p> <p>25 Q. I would like, please -- I think you're aware that an</p> <p style="text-align: center;">Page 90</p>
<p>1 insurer called Ecclesiastical has a set of guidelines.  2 Can we call up on screen, please, INQ004589. Chair, you  3 will find the full guidelines behind your tab B/4.  4 These are guiding principles, as they are termed,  5 and this is a document that I think, chair, you will  6 have seen in the Anglican wider hearing, and  7 Ecclesiastical help provide insurance for the  8 Anglican Church. I think, Ms Perrin, you have seen  9 these guidelines before?</p> <p>10 A. I have.</p> <p>11 Q. The guidelines make clear on the first page at the first  12 heading that they are to help policyholders understand  13 these principles and what actions they can take without  14 prejudicing their insurance position, and to help  15 victims and survivors understand these principles and  16 what the claims process involves. The guidelines that  17 you are drafting, Ms Perrin, who are they going to be  18 aimed at?</p> <p>19 A. At the same classes of people, yes.</p> <p>20 Q. If one turns over the page to page 2 of the guideline at  21 paragraph 3, there is reference here to policyholders  22 considering the appropriateness of an apology. I will  23 read it in full:  24 "Policyholders should consider whether they feel it  25 is appropriate to offer an apology in addition to</p> <p style="text-align: center;">Page 91</p>	<p>1 acknowledging what has happened to the victim and  2 survivor. Ecclesiastical will not prevent an apology,  3 either oral or written, being made by a policyholder."  4 Then it sets out there part 1, section 2 of  5 the Compensation Act 2006:  6 "... makes clear that 'offering an apology, an offer  7 of treatment and other redress shall not in itself  8 amount to an admission of negligence or a breach of  9 statutory duty'. Therefore, to give an apology or  10 simply acknowledge the abuse circumstances will not  11 normally prejudice the insurance position, but such  12 action is best considered by policyholders in  13 consultation with Ecclesiastical."  14 Acknowledging the fact that this is for both the  15 policyholder and for, potentially, a lay victim or  16 survivor reading this document, that reads slightly  17 differently, doesn't it, to the consent being required  18 from the insurers at present, as you have told us about,  19 to issue an apology. Has any thought been given to  20 whether actually the requirement for consent by the  21 insurer is perhaps too strongly worded and that perhaps  22 it should more reflect what is here, where such action  23 is best considered by policyholders in consultation.  24 There is a slight difference in tone there, at the very  25 least?</p> <p style="text-align: center;">Page 92</p>

<p>1 <b>A. Yes, I agree with that. I think the guidelines that we</b>  2 <b>drafted 13 years or so ago were against the background</b>  3 <b>of the time and it was felt, at that time, with the lack</b>  4 <b>of knowledge and awareness and the risk, therefore, to</b>  5 <b>indemnities, that the wording needed to be quite strong,</b>  6 <b>and of course it was an internal document.</b>  7 <b>I think, with the new guidelines being intended to</b>  8 <b>be published as part of the CSAS online manual of</b>  9 <b>procedures, and therefore intended for a slightly</b>  10 <b>different audience, that, yes, I think the wording is</b>  11 <b>likely to be softer, in that sense. But I would say the</b>  12 <b>outcome is the same. You know, it is never advisable to</b>  13 <b>make an apology without insurer's involvement.</b>  14 Q. Have CIS asked the insurers whether they consider that  15 this part of the Compensation Act applies to vicarious  16 liability?  17 <b>A. Yes, we have had discussions with a number of insurers</b>  18 <b>about it, and it is a difficulty. With claims made in</b>  19 <b>vicarious liability, there is no need for negligence or</b>  20 <b>breach of duty and, therefore, an apology could be</b>  21 <b>regarded as an admission of liability. I think it would</b>  22 <b>be helpful if the Compensation Act were amended or other</b>  23 <b>legislation passed to make it clear that an apology does</b>  24 <b>not amount to an admission of liability. But that isn't</b>  25 <b>the only issue when thinking about making apologies.</b></p> <p style="text-align: center;">Page 93</p>	<p>1 Q. Can you give us a taster, insofar as you are able, of  2 what the new guidelines are likely to say about the  3 offering of apologies?  4 <b>A. I think they won't differ far from what was just on</b>  5 <b>screen from the Ecclesiastical guidelines. I don't</b>  6 <b>think that specific reference will be made to the</b>  7 <b>Compensation Act because I don't think it is helpful in</b>  8 <b>the context of claims against dioceses which are</b>  9 <b>invariably brought in vicarious liability. I also think</b>  10 <b>that particularly lay victims and survivors, but also</b>  11 <b>members of the dioceses, won't really understand the</b>  12 <b>reference to the Compensation Act. So I think we would</b>  13 <b>keep it more simple, but say that there are many</b>  14 <b>circumstances in which apologies can be offered and</b>  15 <b>that's always best done in consultation with insurers.</b>  16 Q. In respect of the new guidelines and any updates, can  17 you help us with how those guidelines will be informed  18 by the experience of victims and survivors? You  19 mentioned, I think, potentially, SAP being involved.  20 <b>A. Yes.</b>  21 Q. What is envisaged there?  22 <b>A. I don't know. That would be something that CSAS would</b>  23 <b>lead on.</b>  24 Q. Is it intended, though, that the victim and survivor  25 perspective is taken into account when drafting the new</p> <p style="text-align: center;">Page 94</p>
<p>1 guidelines?  2 <b>A. Oh, yes, absolutely, and that's why SAP will be involved</b>  3 <b>once they're in a position where, you know, we think</b>  4 <b>that insurers will sign up to them. The difficulty for</b>  5 <b>the church in producing its own guidance in this context</b>  6 <b>is that the church isn't an insurer and, as we have</b>  7 <b>seen, the church doesn't have control of claims. So we</b>  8 <b>are not in the position of an Ecclesiastical to put out</b>  9 <b>a set of guidelines saying, "This is how claims will be</b>  10 <b>handled". We can put out a set of guidelines saying,</b>  11 <b>"These are our expectations as to how our insurers will</b>  12 <b>handle the claims", but that relies on the insurers</b>  13 <b>agreeing to them.</b>  14 Q. Finally on this topic, can we call up on screen, please,  15 INQ004781. This is a PowerPoint of a presentation  16 I think you gave -- page 10 -- at a CSAS conference  17 in November 2018. Is that correct?  18 <b>A. Yes, that's right.</b>  19 Q. Who was in attendance at that conference, please,  20 Ms Perrin?  21 <b>A. To the best of my recollection, there were members of</b>  22 <b>the NCSC and the SAP.</b>  23 Q. Were there any bishops of the dioceses in attendance?  24 <b>A. Yes, there was at least one.</b>  25 Q. I want to look, please, at page 16 and the slide headed</p> <p style="text-align: center;">Page 95</p>	<p>1 "Apologies" where, in fact, you make reference to the  2 Compensation Act, although you have just told us that it  3 is likely that the new guidelines perhaps won't make  4 reference to it for the reasons you have enunciated.  5 Can you just help us, please: what was the purpose,  6 then, of telling the conference attendees about the  7 Compensation Act?  8 <b>A. Well, I think it is one thing when you're there in</b>  9 <b>person and you can have a discussion and explain</b>  10 <b>something to include the full picture and the</b>  11 <b>Compensation Act is part of that picture. It is another</b>  12 <b>thing where all you're doing is putting a set of</b>  13 <b>procedures on a website and all that a lay victim or</b>  14 <b>survivor can do is read them. So I explained the</b>  15 <b>Compensation Act fully and the challenges that it</b>  16 <b>presented to the audience.</b>  17 Q. If we go on to the next page, in fact, it might  18 summarise your position. You said there, certainly on  19 the PowerPoint, that claims will be brought in vicarious  20 liability with no fault on the part of the organisation.  21 There are potential defences to vicarious liability in  22 limited circumstances and care must be taken not to  23 prejudice insurers' ability to defend claims. Insurers  24 are not unreasonable and are increasingly used to  25 agreeing pastoral responses, including offers of</p> <p style="text-align: center;">Page 96</p>



<p>1 counselling in individual cases. Organisations should                  2 always identify and engage with their insurers before                  3 taking action. The summary actually doesn't make any                  4 reference to apologies there, albeit that you were                  5 talking about them on the page before. Some reading                  6 that might think it is actually still a slightly                  7 defensive stance to be taken on behalf of the diocese.                  8 What do you say to that, Ms Perrin?                  9 <b>A. I think it's simply factual. My message always to                  10 dioceses is that insurers are involved in these matters                  11 and the best thing they can do is have early                  12 communication with insurers because that means that                  13 everything works better and more easily for everyone.</b>                  14 Q. Are you aware of how your input into this and your                  15 experience in this is, in fact, fed back to the bishops                  16 and those that are acting on behalf of the dioceses?                  17 <b>A. I'm sorry?</b>                  18 Q. You told us about the CSAS conference which was                  19 primarily attended by members of the SAP and/or the NCSC                  20 but, in fact, you're the person who acts on behalf of                  21 the dioceses. How is it you convey to them either                  22 changes in mood or changes in tone, changes in stances                  23 taken by the insurers, how do you make sure they're                  24 aware of the current thinking?                  25 <b>A. So I appear regularly at the financial secretaries'</b></p> <p style="text-align: center;">Page 97</p>	<p>1 <b>conference. That, as the name would suggest, is a group                  2 of financial secretaries from each diocese in England                  3 and Wales and they come together for a conference twice                  4 a year. The financial secretary role is usually also                  5 secretary to the trustees of the diocese. So that's one                  6 route through which I'm able to communicate updates.                  7 But, also, I have appeared at Bishops' Conference                  8 meetings to talk to them about changes in approach and                  9 also to listen to them about their experience of dealing                  10 with these claims and, in particular, insurance aspects.</b>                  11 Q. If a bishop wanted to speak to you about -- to seek some                  12 guidance, is that something they can do? Do they phone                  13 you up and ask for some help?                  14 <b>A. Yes, they phone me, they email me.</b>                  15 Q. Can I move now on to a different topic and that of                  16 the limitation defence. It might be helpful to call up                  17 on screen INQ004589_003. This is, in fact, again taken                  18 from the Ecclesiastical document, but is a fairly neat                  19 summary, at paragraph 9, of the position in relation to                  20 limitation. Just so that everyone can understand the                  21 background to these questions, is the position this:                  22 that there is a Limitation Act in force in England and                  23 Wales which states that a personal injury claim, which                  24 will include a claim in relation to child sexual abuse,                  25 ought to be brought within three years of the claimant</p> <p style="text-align: center;">Page 98</p>
<p>1 being aware that they have been injured?                  2 <b>A. Yes.</b>                  3 Q. The courts, though, have power to extend the limitation                  4 period, but, as a broad principle, there is a three-year                  5 limitation period?                  6 <b>A. Yes.</b>                  7 Q. A number of claims, as we know, relate to matters that                  8 happened many years, if not decades, earlier, and that                  9 victims and survivors have a number of reasons why they                  10 can't complain or don't feel they can complain, until                  11 many years later. Against that background, can I ask                  12 you, who makes the decision about whether the limitation                  13 defence ought to apply to any given claim?                  14 <b>A. Well, I suppose whether the limitation defence applies                  15 is a matter of law: has the claim been brought in time                  16 or not? As to whether the defence is actually going to                  17 be relied upon in a claim, so the solicitors instructed                  18 by the insurers will provide their advice, and that will                  19 include whether they feel it is possible, or                  20 appropriate, to mount a limitation defence in any                  21 particular claim.</b>                  22 Q. Assuming that the solicitors instructed on behalf of                  23 the insurer think it should be pleaded or relied upon,                  24 that will no doubt be fed back to the diocese?                  25 <b>A. Yes.</b></p> <p style="text-align: center;">Page 99</p>	<p>1 Q. What is the position if the diocese doesn't want to rely                  2 on the limitation defence?                  3 <b>A. As I described earlier in the case involving the consent                  4 argument, there will be a toing and froing between                  5 myself, the diocese, the insurers, to see if there is                  6 some way of accommodating the diocese's wishes and, if                  7 not, ultimately, the insurers are in control of                  8 the claim and will raise limitation.</b>                  9 Q. They will raise limitation. If a diocese said they                  10 didn't want to, then I assume it follows that the                  11 diocese would not be indemnified under the insurance                  12 policy and potentially liable for all of the costs                  13 arising from the claim?                  14 <b>A. Yes.</b>                  15 Q. Can you help us with practically how often now, in cases                  16 involving historic allegations of child sexual abuse, is                  17 the limitation issue raised, in the first instance? Is                  18 that still something frequently relied upon by the                  19 insurance solicitors?                  20 <b>A. I think professionally there's an obligation on them to                  21 point out to their client that the claim is out of time.                  22 You know, it's not brought within the three-year                  23 limitation period. I can think of maybe two claims that                  24 I have dealt with -- there may be others on the                  25 spreadsheet that I wasn't involved in -- which were</b></p> <p style="text-align: center;">Page 100</p>

<p>1 brought in time, within that three-year period. So</p> <p>2 invariably the claims are out of time and, therefore,</p> <p>3 limitation is in issue in the claim. It's obviously up</p> <p>4 to the insurers then whether they rely on it.</p> <p>5 What I would say is that where a claim has not been</p> <p>6 brought in time, it has to be raised with the claimant's</p> <p>7 solicitors at the earliest opportunity to say, you know,</p> <p>8 "This is an issue in the claim". The evidence will then</p> <p>9 evolve during the life of the claim, and if evidence is</p> <p>10 adduced which means that, actually, it is considered</p> <p>11 there can be a fair trial and that there isn't</p> <p>12 significant prejudice to the defendant, then the</p> <p>13 limitation defence can be dropped. But I would say,</p> <p>14 almost invariably, if a claim has not been brought in</p> <p>15 time, the limitation defence will be raised at the</p> <p>16 outset.</p> <p>17 Q. Do you get a sense that the limitation is a sort of</p> <p>18 stick with which to beat the claimant's solicitors,</p> <p>19 saying, "Well, hold on a minute, if you take this to</p> <p>20 trial, there is a risk that limitation won't be</p> <p>21 extended. Therefore, you had better settle the claim at</p> <p>22 a lower figure"?</p> <p>23 A. I don't think it's a stick to beat the claimant's</p> <p>24 solicitors with. I think they know full well what the</p> <p>25 position is, and it all comes down to an analysis, at</p> <p style="text-align: center;">Page 101</p>	<p>1 the end of the day: can there be a fair trial of this</p> <p>2 claim?</p> <p>3 Q. Can I ask you this: if the church decided, as a matter</p> <p>4 of policy, not to rely on limitation, presumably that</p> <p>5 would be something they would need to discuss with you</p> <p>6 and you in turn with the insurer -- I'm not talking</p> <p>7 about a change of law, but if the Roman Catholic Church</p> <p>8 said, "Actually, we don't want limitation to be raised</p> <p>9 now. We won't rely on it. It won't be pleaded". How</p> <p>10 would that kind of discussion work, as far as you can</p> <p>11 foresee?</p> <p>12 A. Well, first of all, you have to recognise that there</p> <p>13 isn't such a thing in civil law as "the church". All of</p> <p>14 the dioceses and the orders and other organisations are</p> <p>15 independent, autonomous entities, so each of them would</p> <p>16 have to make that decision. So that's a challenge, in</p> <p>17 itself. But let's assume that all of those</p> <p>18 organisations all decided that they weren't going to</p> <p>19 rely on limitation, then, yes, I suppose I and others</p> <p>20 would seek to engage with insurers to explain why and to</p> <p>21 see whether insurers would be prepared nonetheless to</p> <p>22 indemnify claims.</p> <p>23 Q. That deals with sort of a broader issue. If I can just</p> <p>24 call back up on screen, please, the same page we were</p> <p>25 looking at, INQ004589_003. Within the body of</p> <p style="text-align: center;">Page 102</p>
<p>1 paragraph 9, one can see there the Ecclesiastical</p> <p>2 stance:</p> <p>3 "... acknowledges that, limitation should be pleaded</p> <p>4 as a defence claim sparingly in relation to physical and</p> <p>5 sexual abuse claims. Ecclesiastical has an internal</p> <p>6 escalation procedure, which requires the pleading of</p> <p>7 a limitation defence to be considered and approved only</p> <p>8 at a senior level before it is pleaded in any individual</p> <p>9 case."</p> <p>10 I assume the reference to the "senior level" is</p> <p>11 within people working for Ecclesiastical?</p> <p>12 A. Yes.</p> <p>13 Q. Is there any thought being given as to whether there</p> <p>14 should be a like provision in the guidance that is being</p> <p>15 produced between you and CSAS?</p> <p>16 A. Again, we are not the insurer, so we can't force the</p> <p>17 insurers to do that. But I know that that's quite</p> <p>18 routine amongst other insurers, that they also require</p> <p>19 the sign-off of a senior member of staff before</p> <p>20 limitation is pleaded. So I think this is happening</p> <p>21 within insurers.</p> <p>22 Q. Ms Perrin, that's all I wanted to deal with in relation</p> <p>23 to limitation.</p> <p>24 Can I ask you, please, now, about a matter raised in</p> <p>25 your second witness statement, which I hope you will</p> <p style="text-align: center;">Page 103</p>	<p>1 have in front of you. Chair, it is behind your tab A/2.</p> <p>2 Really, some questions about the use of charitable funds</p> <p>3 to pay for counselling for victims and survivors.</p> <p>4 I think, in due course, there is a template -- can</p> <p>5 I call up on screen, please, INQ004781, and on to</p> <p>6 page 2. We might look at that in a moment.</p> <p>7 Ms Perrin, in a nutshell, can you summarise, what is</p> <p>8 the position in relation to using charitable funds to</p> <p>9 pay for counselling for victims and survivors of abuse?</p> <p>10 A. There are two parts to this. First of all, a charity</p> <p>11 can only use its charitable funds to advance its</p> <p>12 charitable objects. So the use of charitable funds for</p> <p>13 counselling has to in some way contribute to the</p> <p>14 furtherance of the charity's objects, and, secondly, the</p> <p>15 charity has to have the power to use its funds in that</p> <p>16 way.</p> <p>17 It is quite complex, and even the Charity Commission</p> <p>18 themselves gave quite contradictory guidance as to</p> <p>19 whether a diocese's typical charitable objects -- they</p> <p>20 are all slightly different but follow a pattern -- gave</p> <p>21 them the power to use their funds in this way.</p> <p>22 So we sought advice and, in the end, came up with</p> <p>23 the template policy for dioceses to adopt to facilitate</p> <p>24 the payment -- the use of charitable funds to pay for</p> <p>25 counselling.</p> <p style="text-align: center;">Page 104</p>

<p>1 Q. Is this the template we have up on screen now?  2 <b>A. Yes.</b>  3 Q. I think you said in your statement that was a template  4 circulated to the dioceses in 2012 --  5 <b>A. Yes, that's right.</b>  6 Q. -- designed to assist them to ensure that the trustees  7 had considered all relevant matters, including the  8 insurer's position for making the decision whether to  9 fund counselling. Is that a template that is still at  10 the fore or, like the intimated guidelines where claims  11 are brought, something, perhaps, that was used or relied  12 on a lot at the beginning and now less so as people  13 become more familiar with the position?  14 <b>A. This is a policy that ought to be adopted, and then any</b>  15 <b>time -- usually, I think the process in a diocese would</b>  16 <b>be the safeguarding coordinator would put a request</b>  17 <b>through to the trustees to pay for counselling for</b>  18 <b>a particular individual, and the trustees would apply</b>  19 <b>this policy. So it is a matter of policy that's been</b>  20 <b>adopted by dioceses. It may not be used that</b>  21 <b>frequently, depending on how many requests they get.</b>  22 <b>But it should still be used.</b>  23 Q. Final few topics, please. You have been very clear in  24 giving your evidence, Ms Perrin, about the regime that  25 applies and the various clauses that are written into</p> <p style="text-align: center;">Page 105</p>	<p>1 public liability insurance policies. I suppose, from  2 a different perspective, one might want to understand  3 what consideration is there given to impact of  4 insurance-based decisions on victims and complainants?  5 For example, we talk about them being a complainant, not  6 a victim and survivor, there are changes in language,  7 there are changes in what is the law and what the  8 diocese might want to do as part of a pastoral response.  9 Can you help us about how decisions that are made by  10 insurers include reference to the impact on victims and  11 complainants?  12 <b>A. I don't think that's a question for me. You're asking</b>  13 <b>whether insurers, in making their decisions, take into</b>  14 <b>account victims and survivors.</b>  15 Q. Do you know?  16 <b>A. Not really. I don't have discussions with insurers</b>  17 <b>generally about a lot of this. It is email exchanges,</b>  18 <b>and they make their position fairly clear.</b>  19 Q. I only ask you because, effectively, you are in the  20 middle, as it were, between the dioceses and the  21 insurers, and whether, from your number of years, now,  22 working with CIS, you get a sense of whether the  23 insurers really understand the impact that some of their  24 decisions have on the victims and survivors?  25 <b>A. I think I would say, like we all have, they have grown</b></p> <p style="text-align: center;">Page 106</p>
<p>1 <b>in understanding of the impact of abuse on victims and</b>  2 <b>survivors and, indeed, the legal process, and I think</b>  3 <b>that's shown by the ease with which now insurers will</b>  4 <b>agree wording for apologies or will almost have</b>  5 <b>a blanket agreement to counselling being offered. So</b>  6 <b>I think that does indicate that there has been an</b>  7 <b>acknowledgement of the impact on victims and survivors,</b>  8 <b>but it isn't something that -- they're not discussions</b>  9 <b>that I'm party to.</b>  10 Q. The chair and panel heard last week from a complainant  11 known as RC-A711, and I would just like to ask you,  12 please, about your paragraphs 11 and 12 in your second  13 witness statement. You may recall, chair, that there  14 was reference when A711 gave evidence to the  15 safeguarding officer stating words to the effect, "She  16 took advice from Kathy, the solicitor for the insurers",  17 and I think you wanted to clarify your position in  18 relation to this?  19 <b>A. Well, yes. I'm not the solicitor to the insurers, I'm</b>  20 <b>the solicitor to the diocese, so that's just incorrect.</b>  21 Q. In particular, in A711's case, they were allegations  22 that were being made against a priest from a religious  23 order, not a diocesan priest, and so any claim for  24 compensation would lie against the order, not the  25 diocese?</p> <p style="text-align: center;">Page 107</p>	<p>1 <b>A. That's right. So the diocesan insurers had no</b>  2 <b>involvement.</b>  3 Q. One other matter is this: can I ask to look on the  4 screen at INQ004675. If we can turn to page 2 of that  5 statement, towards the top of the page, a reference in  6 an article -- one can see this is in relation to the  7 Comboni Order, and a claim that was being made. In  8 fact, there were a number of cases pending. The article  9 was drawing attention to that.  10 A little way down the second paragraph, we can see  11 reference there to two cases pending:  12 "... and many corroborating statements have been  13 given to lawyers by victims who want to expose what  14 happened, but cannot face the stress of court  15 proceedings. Confirming the 11 settlements, the order's  16 spokeswoman, a solicitor with the Catholic Church  17 Insurance Association, stressed, "The claims were made  18 on a purely commercial basis with no admission of  19 liability".  20 A number of things. Firstly, putting aside the  21 reference to the order's spokeswoman, did you ever make  22 a quote along the lines that the claims were made purely  23 on a commercial basis with no admission of liability?  24 <b>A. So I was asked to speak to the journalist because she</b>  25 <b>wanted to understand the basis of settlement of</b></p> <p style="text-align: center;">Page 108</p>

1 **the claims, and I think that's a misquote. I think it**  
 2 **should be, "The claims were settled purely on**  
 3 **a commercial basis with no admission of liability"**  
 4 **rather than "made", but, yes, I would have said words to**  
 5 **that effect, I'm sure.**  
 6 Q. Can I ask this: why is it that you are making  
 7 a statement to this effect? I know here it says it's  
 8 the order's spokeswoman. Presumably, you are not, and  
 9 you weren't, the spokeswoman for the order?  
 10 **A. No, and later on in the article I believe there is**  
 11 **a statement that was given by the spokesman, including**  
 12 **a direct quote from the Provincial of the order. But,**  
 13 **as I say, the journalist wanted to understand the**  
 14 **litigation and the order didn't really feel equipped to**  
 15 **speak to her to confirm how the litigation was dealt**  
 16 **with.**  
 17 Q. So why is it that you, on behalf of CClA, as it was,  
 18 were getting involved in making a quote to the  
 19 journalist or providing a quotation to the journalist?  
 20 **A. Well, I had a discussion with her and she quoted me from**  
 21 **that but, as I say, the order asked me to speak to her**  
 22 **because they weren't confident about talking about the**  
 23 **basis on which the litigation was handled.**  
 24 Q. Do you consider that that quotation, albeit that we only  
 25 perhaps have a part of the conversation between you and

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1 yourself, you are -- the organisation for which you are  
 2 the CEO of, but you provide an opportunity for dioceses  
 3 of bulk purchasing for commercial insurers to provide  
 4 the insurance for the diocese in question; is that  
 5 correct?  
 6 **A. Yes, that's right. We arrange the insurance with**  
 7 **insurers.**  
 8 MS SHARPLING: When you arrange the insurance with the  
 9 insurers, are any conditions suggested as part of  
 10 the contractual arrangements that would be perhaps more  
 11 supportive of victims and complainants? So you've got  
 12 some purchasing power. So would you, for example, say  
 13 to the insurers, "Well, we are coming to you for  
 14 insurance, but we want the following conditions in the  
 15 contract ...", or do you take the ready-made product  
 16 from the insurers themselves?  
 17 **A. No, we have been -- so we are talking about the public**  
 18 **liability insurance, as we talked about earlier?**  
 19 MS SHARPLING: Yes, we are.  
 20 **A. We have actually been in a long-term agreement with that**  
 21 **policy for some time and that's coming up for expiry**  
 22 **and, in fact, we are looking, now that we are going to**  
 23 **a remarketing exercise, at requiring some conditions as**  
 24 **part of that contract. So, yes, we are looking at that.**  
 25 MS SHARPLING: Can I press you on the conditions? Will the

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1 the journalist, pays any real regard to the victims of  
 2 those cases that were being settled?  
 3 **A. No, I think the official statement which is quoted from**  
 4 **the Provincial has regard for the victims. I wasn't**  
 5 **aware that I would be quoted at all when I spoke to the**  
 6 **journalist. I had understood that I was explaining the**  
 7 **background to the litigation.**  
 8 Q. Would you, on behalf of CIS, make such a statement  
 9 today?  
 10 **A. Well, as I said, I didn't make a statement as such for**  
 11 **publication then, and I wouldn't now, no.**  
 12 Q. Would you give a quotation to a journalist who came to  
 13 ask you about the handling of a child sexual abuse claim  
 14 today?  
 15 **A. I think I have now learnt that, with journalists,**  
 16 **nothing is off the record and nothing is by way of**  
 17 **background, so I wouldn't speak to journalists, no.**  
 18 Q. Would anyone else, as far as you're aware, at CIS?  
 19 **A. No-one else has authority to speak to journalists.**  
 20 MS CAREY: Let me see if there are questions from the chair  
 21 and panel.  
 22 Questions from THE PANEL  
 23 MS SHARPLING: Thank you, Ms Perrin. You will correct me if  
 24 I have misunderstood the nature of your role, but as  
 25 I understand it, you are not offering insurance

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1 conditions have any relationship with the treatment of  
 2 victims and complainants?  
 3 **A. Yes, and, indeed, depending on timing, one of**  
 4 **the conditions may well be that the insurers must sign**  
 5 **up to the guidelines which are being produced with CSAS**  
 6 **currently.**  
 7 MS SHARPLING: I see. Thank you very much.  
 8 THE CHAIR: Thank you. We have no further questions.  
 9 MS CAREY: Thank you very much. Thank you, Ms Perrin.  
 10 (The witness withdrew)  
 11 MS CAREY: Chair, we are moving, this afternoon, to the  
 12 evidence of Monsignor Gordon Read. May we make a start  
 13 with him and I will pick a convenient moment to break  
 14 for our mid-afternoon break?  
 15 MONSIGNOR GORDON FRANCIS READ (sworn)  
 16 Examination by MS CAREY  
 17 MS CAREY: Monsignor, your full name, please?  
 18 **A. Gordon Francis Read.**  
 19 Q. Can you help us at the outset, "Monsignor", what does  
 20 that mean? What does that signify?  
 21 **A. It is just a title of honour. In the secular world,**  
 22 **perhaps it is equivalent to a knight, but it is just**  
 23 **given as a recognition of service, and so on.**  
 24 Q. I think you are known in your parish as Father Gordon?  
 25 **A. Yes.**

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<p>1 Q. I will call you today Monsignor Read for formality, if 2 I may. 3 <b>A. Okay, fine.</b> 4 Q. I think you were ordained to the priesthood back 5 in July 1976 and so have been a priest now for 43 years; 6 is that right? 7 <b>A. That's correct.</b> 8 Q. You have worked in a number of parishes. Can you help 9 us with how many? 10 <b>A. Yes, four.</b> 11 Q. You studied Canon law at the Pontifical Gregorian 12 University in Rome in 1977, obtained a licence in Canon 13 law and have worked as a Canon lawyer in the service of 14 the Brentwood Diocesan Tribunal and Chancery and have 15 been a chancellor of the Diocese of Brentwood since 16 1985? 17 <b>A. That's correct.</b> 18 Q. You say a judicial vicar since 1986. Just help us, what 19 does the role of judicial vicar entail? 20 <b>A. Overall responsibility for the tribunal. Mostly, it is</b> 21 <b>concerned with judging marriages, marriage nullity, but</b> 22 <b>also acting as a judge on the tribunal.</b> 23 Q. In your role as judicial vicar, have you ever had to sit 24 as a judge in respect of child sexual abuse allegations 25 against a member of the clergy?</p> <p style="text-align: center;">Page 113</p>	<p>1 <b>A. No.</b> 2 Q. I think you say between 2013 and 2016, you served as 3 President of the Canon Law Society of Great Britain and 4 Ireland and you have published many articles on Canon 5 law in various periodicals? 6 <b>A. That's correct.</b> 7 Q. We are going to turn, please, if we may, to some of 8 the detail in relation to Canon law. I wonder if we can 9 start with an overview of the definition and call up on 10 screen, please, CHC001929_005. Monsignor, paragraph 12 11 in your witness statement, if it assists you. 12 <b>A. Yes.</b> 13 Q. This is actually, in fact, an extract from your witness 14 statement. 15 <b>A. Yes.</b> 16 Q. I think, to start with, perhaps a definition there. 17 I think this is taken from the Royal Commission report, 18 but for your purposes, you're content for this to stand 19 as a definition of Canon law? 20 <b>A. I am, yes.</b> 21 Q. Namely: 22 "Canon law is the name for the law of 23 the Catholic Church. It includes the Code of Canon Law 24 and many other canonical documents issued by Popes, 25 Roman congregations, Bishops' Conferences and diocesan</p> <p style="text-align: center;">Page 114</p>
<p>1 bishops. Canon law covers all areas of church life 2 including the selection and training of clergy, rights 3 and obligations of members, selection of bishops and 4 punishment for committing canonical crimes." 5 <b>A. Yes.</b> 6 Q. The law that governs the church. I think for these 7 purposes references to Canon law are to the 1983 Code of 8 Canon Law; is that correct? 9 <b>A. That's correct, yes.</b> 10 Q. And, chair and panel, if you see references in any 11 documents that come up on screen, references to "the 12 ordinary" are references in Canon law to a bishop or 13 a religious superior? 14 <b>A. That's correct, yes.</b> 15 Q. Can I ask you, please, about paragraph 7 of your witness 16 statement, where you say there that the life of 17 the Catholic Church in England and Wales is primarily 18 governed by divine law. Help us, please, with what 19 divine law is? 20 <b>A. Well, the church understands divine law to be those</b> 21 <b>things that are found directly taught in the</b> 22 <b>scriptures -- the Ten Commandments, the teachings of</b> 23 <b>Christ, and so on.</b> 24 Q. So if one gave an example, perhaps one of 25 the Commandments, "Thou shalt not kill" --</p> <p style="text-align: center;">Page 115</p>	<p>1 <b>A. Indeed.</b> 2 Q. -- that would be a matter of divine law? 3 <b>A. Yes.</b> 4 Q. I think you say that Canon law is the positive 5 enactments that will effect or incorporate divine law? 6 <b>A. That's correct.</b> 7 Q. So effectively, human legislation putting into effect 8 divine law. Can I understand this: does divine law 9 trump Canon law? 10 <b>A. One would hope there is no contradiction between the</b> 11 <b>two, but clearly, yes, divine law would trump Canon law.</b> 12 Q. Who is responsible for ensuring that Canon law is in 13 accordance with divine law? 14 <b>A. Well, ultimately, it would be the Pope.</b> 15 Q. There is a number of terms that I think we need to set 16 out our stall with so we can understand some of 17 the topics about which you are going to give evidence. 18 Can I start, please, with how the Pope makes legislation 19 and what it is called. I'm looking at paragraph 9 in 20 your statement, Monsignor. The Pope can make 21 legislation; is that right? 22 <b>A. Yes.</b> 23 Q. Where he does so, it applies to the Catholic Church 24 worldwide? 25 <b>A. It does, yes.</b></p> <p style="text-align: center;">Page 116</p>

1 Q. Is that what is known as universal law?  
 2 **A. Yes, that's right. Because it covers the whole church**  
 3 **worldwide, as distinct from just a geographical area.**  
 4 Q. So worldwide law, universal law?  
 5 **A. Yes.**  
 6 Q. There is then, is there not, law within a particular  
 7 territory?  
 8 **A. Yes.**  
 9 Q. Known as either a particular law or a territorial law?  
 10 **A. Particular law would describe its geographical remit;**  
 11 **territorial is to say that it applies to everyone within**  
 12 **that territory, rather than a particular group of people**  
 13 **on an individual basis.**  
 14 Q. Can I bring it back to the Church in England and Wales.  
 15 If a bishop made a law, that would cover his diocese?  
 16 **A. That's correct.**  
 17 Q. Would that be known as a particular or a territorial  
 18 law?  
 19 **A. Well, it would be particular, but it would apply within**  
 20 **the territory of his diocese.**  
 21 Q. If the Bishops' Conference in England and Wales  
 22 legislated, what would that be known as?  
 23 **A. That, again, would be a particular law within the**  
 24 **territory of the Episcopal Conference of England and**  
 25 **Wales.**

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1 **decree of the bishop within his own diocese, so that**  
 2 **will be, at the moment, enforced through a particular**  
 3 **law to that diocese, diocese by diocese.**  
 4 Q. If the Bishops' Conference want to legislate for a law  
 5 covering in England and Wales, does that require the  
 6 process of recognitio to be gone through?  
 7 **A. It does. Otherwise, it's just a question of the bishops**  
 8 **individually legislating for their own dioceses.**  
 9 Q. We will come back to recognitio a little later in your  
 10 evidence. We have looked at laws within the dioceses.  
 11 In relation to the orders -- I'm looking at paragraph 10  
 12 in your witness statement -- we know that there are  
 13 a number of orders and religious congregations  
 14 throughout England and Wales, and I think you say this,  
 15 that they all have personal laws within the religious  
 16 communities?  
 17 **A. That's correct.**  
 18 Q. What's a personal law?  
 19 **A. It would be a law that applies only to the members of**  
 20 **that particular religious institute.**  
 21 Q. Do they apply to the person within the community  
 22 wherever they are based?  
 23 **A. They do, yes.**  
 24 Q. The religious are governed by the laws that bind only  
 25 the members of the community, but those laws may apply

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1 Q. Can you help us with this: you have told us that if  
 2 a bishop makes a law, it is only applicable within his  
 3 diocese. Can you give us any sense of how often that  
 4 happens?  
 5 **A. Hard to say. I mean, it depends how -- very often,**  
 6 **you're talking about quite minor things.**  
 7 Q. Can you give us an example, and then we will perhaps  
 8 have a better understanding of what you mean?  
 9 **A. Well, for example, it might be a question of the way in**  
 10 **which a priest is remunerated.**  
 11 Q. Okay.  
 12 **A. That would be particular -- there is no overall pattern**  
 13 **for the country, but the way in which a priest is**  
 14 **remunerated within a particular diocese would be decided**  
 15 **by the bishop and that would apply within that diocese**  
 16 **and to the priests of that diocese, but not elsewhere.**  
 17 **So there would be quite a lot of relatively minor**  
 18 **regulation, if you like. That would be particular law**  
 19 **for that diocese.**  
 20 Q. Can you think of any examples that might be applicable  
 21 in the context of a child sexual abuse allegation, where  
 22 a bishop might only legislate within his own diocese?  
 23 **A. Well, I think up to now where there's been no overall**  
 24 **decree at the Bishops' Conference, then the regulations,**  
 25 **and so on, issued by CSAS would be enforced through the**

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1 worldwide or within a particular region?  
 2 **A. That's correct.**  
 3 Q. The orders themselves, can I ask you, please, about  
 4 paragraph 110 in your witness statement. I think you  
 5 explain there that the religious communities often began  
 6 in an informal way from a group of individuals gathered  
 7 around a charismatic founder. As the life of  
 8 the community began to stabilise, the founder often  
 9 prepared a fundamental code or constitution setting out  
 10 the essential practices of the community, known as  
 11 a rule of life?  
 12 **A. That's correct, yes.**  
 13 Q. Is this the position, that, historically, the order will  
 14 have approached the bishop or the Pope of the day,  
 15 seeking formal approval of that constitution?  
 16 **A. Yes, and that will be the normal way in which**  
 17 **a religious order will be officially recognised, rather**  
 18 **than just an unofficial grouping that choose to live in**  
 19 **a particular way.**  
 20 Q. For some of these orders, we are going back centuries?  
 21 **A. Yes.**  
 22 Q. Where the constitution is approved by a bishop, can you  
 23 help, Monsignor, what does the community become known as  
 24 or described as?  
 25 **A. When a group begins to form in this way, it is described**

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1 as an association of the faithful, because it has not  
 2 yet been given any kind of official recognition. The  
 3 next stage would be to seek recognition, usually at  
 4 diocesan level at that stage, and if the bishop approves  
 5 and after consultation with the Holy See, then he would  
 6 formally erect the association as a religious community  
 7 of what is called diocesan rite. That is to say, it is  
 8 erected by the bishop, the bishop is in ultimate charge  
 9 of that particular religious community.  
 10 Later on, they may seek to have a much wider  
 11 recognition by seeking recognition from the Holy See,  
 12 and then they would be called a religious community of  
 13 the pontifical rite.  
 14 Q. Is it possible, therefore, there are religious  
 15 communities that are only known as diocesan rite or do  
 16 all that start off as diocesan end up being given  
 17 pontifical rite?  
 18 A. No, some either don't progress to that stage or some  
 19 prefer simply to operate on a diocesan level and don't  
 20 seek that wider recognition.  
 21 Q. Once the constitution of the religious has been approved  
 22 by either the bishop or the Pope, is it right that it  
 23 cannot be changed without permission of either the  
 24 bishop or the Pope?  
 25 A. That's correct.

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1 religious communities reflect and embody those of  
 2 the universal law of the church.  
 3 Q. So if there were a community being set up today and they  
 4 had devised their constitution, before either seeking  
 5 a bishop's approval or, indeed, the Pope's approval,  
 6 would you anticipate that there would be a check to  
 7 ensure the constitution was in alignment with the 1983  
 8 code?  
 9 A. I would, and this is why, at diocesan level, the bishop  
 10 is required to consult with the congregation in Rome  
 11 before giving approval, and that would be so that they  
 12 can check the wording of the constitution to make sure  
 13 that it is in conformity with universal law.  
 14 Q. I think you go on to explain at paragraph 118 that there  
 15 is a body known as the CICALSAL that manages conflicts --  
 16 that's the Congregation for Institutes of Consecrated  
 17 Life and Societies and Apostolic Life; that's what  
 18 CICALSAL stands for.  
 19 A. Yes.  
 20 Q. Help us with that body. How do they work in relation to  
 21 orders and ensuring that there is no conflict between  
 22 the religious community's constitution and universal  
 23 law?  
 24 A. Well, they have overall responsibility for all religious  
 25 communities in the life of the church in the name of

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1 Q. Once that approval has been given by either the bishop  
 2 or the Pope, that is when it establishes the  
 3 constitution as a personal law which is binding on  
 4 members of that religious community, wherever they may  
 5 be?  
 6 A. Yes.  
 7 Q. Can I ask you about paragraph 116, please, where you say  
 8 this:  
 9 "Where papal authority is given, the constitution  
 10 will override any contrary provisions in the 1983 Code  
 11 of Canon Law."  
 12 How is it that a religious community's constitution  
 13 can override provisions of the 1983 code?  
 14 A. Well, let's give an example. The 1983 code requires  
 15 that a person be 18 years old before they can be  
 16 admitted as a novice. It would be theoretically  
 17 possible for a religious community to ask that, for  
 18 them, someone might be admitted at 17. Now, were the  
 19 Pope to grant that, that would override the general  
 20 provision requiring the age of 18. I have to say,  
 21 I think that's extremely unlikely, but that would be an  
 22 illustration of what could happen. But it would only be  
 23 for that particular religious community. So there could  
 24 be an exception like that made, but normally, part of  
 25 the process would be to try to ensure that the laws of

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1 the Pope. So any approval or variation of constitutions  
 2 would have to be referred to them. Equally,  
 3 disciplinary matters ultimately would be decided by this  
 4 particular congregation, if they're referred on to Rome  
 5 from the more local level.  
 6 Q. So CICALSAL has two purposes, if I understand you right:  
 7 firstly, to ensure that the constitution is in broad  
 8 agreement with universal law. If any changes were being  
 9 made, it would be run past them, if I understand you  
 10 correctly?  
 11 A. That's correct, yes.  
 12 Q. But they also have a disciplinary function in terms of  
 13 dealing with failures to abide by orders, constitutions  
 14 and Canon law generally; is that right?  
 15 A. Yes.  
 16 Q. In that sense, are they similar to what we have called  
 17 the CDF in relation to dioceses?  
 18 A. The CDF is responsible overall, not just for dioceses.  
 19 It has a responsibility that extends to the whole  
 20 church. The Congregation of the Clergy is mentioned  
 21 briefly and they have responsibility for the diocesan  
 22 clergy. But religious clergy are under the authority of  
 23 the Congregation for Religious.  
 24 Q. Can I just jump ahead slightly. If there were an  
 25 allegation that was made against a member of a religious

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1 order that resulted in a conviction in the criminal  
 2 court and there were attempts made then to dismiss that  
 3 member from the order, is that a matter that would go to  
 4 CICALSAL?  
 5 **A. There would be, if you like, two parallel processes: one  
 6 concerning membership of the religious order and the  
 7 Congregation of the Religious would ultimately make that  
 8 decision, and usually if the person is a priest, then it  
 9 would also be referred to the CDF for them to take  
 10 forward dismissal from the priesthood.**  
 11 Q. Finally, at this stage, in relation to orders, you've  
 12 explained how it is possible for a constitution --  
 13 sorry, let me start that again.  
 14 You've explained how an order's constitution ought  
 15 to be in alignment with the 1983 code. Is it right that  
 16 orders have to abide by Canon law and that any failure  
 17 to do so could result in them being refused to minister  
 18 in a diocese?  
 19 **A. No religious community can function within a diocese  
 20 without the invitation of the bishop to be there. That  
 21 can be withdrawn, particularly if you have  
 22 a disciplinary problem of that kind, and that's true  
 23 whether it's for the religious community as a whole or  
 24 for an individual member of religious community.**  
 25 Q. Are you aware of any examples of a religious order's

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1 **circumscribed in its subject matter.**  
 2 **So when those are issued, they're promulgated, made  
 3 known, officially through the Acta Apostolicae Sedis,  
 4 which is a kind of journal of the Holy See. Often,  
 5 today, it's given to L'Osservatore Romano, the daily  
 6 Roman paper published by the Vatican in advance of that.  
 7 So that's how they are made public.**  
 8 **Unfortunately, there's not really been any provision  
 9 made for reprinting the text of the Code of Canon Law  
 10 incorporating changes as they happen. So it can be  
 11 quite difficult to trace subsequent changes. Hopefully,  
 12 this will be remedied in due course, but not so far.**  
 13 Q. If I understand you correctly, although there are two,  
 14 at least, main ways in which the Pope makes legislation  
 15 which might either add, revise or amend Canon law, if  
 16 one goes back to the original text, you will see it in  
 17 its unamended form?  
 18 **A. That's correct.**  
 19 Q. We will come on to an example of that when we look at  
 20 child sexual abuse. The two ways of adding to canon law  
 21 or amending the provisions are the apostolic  
 22 constitutions?  
 23 **A. Yes.**  
 24 Q. And the motu proprios?  
 25 **A. Yes.**

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1 constitution overriding or being contrary to the 1983  
 2 code in the context of child sexual abuse?  
 3 **A. I'm not aware of that.**  
 4 Q. Can you envisage any circumstance where a constitution  
 5 would be allowed to be drawn up that was contrary to  
 6 either the 1983 code or any of the other papal edicts in  
 7 relation to child sexual abuse?  
 8 **A. I can't imagine that today, no.**  
 9 Q. One other matter is this, before we look at some Canon  
 10 law. I think you say this, that -- obviously we are  
 11 talking about the 1983 Code of Canon Law, but there have  
 12 been subsequent amendments to that code?  
 13 **A. Yes.**  
 14 Q. Can you just help us, how the amendments are compiled  
 15 and how one finds them when one looks at the 1983 code?  
 16 **A. Compiling them is one thing, finding them is another,  
 17 I'm afraid.**  
 18 Q. Quite.  
 19 **A. So papal laws take various forms. There is what's  
 20 called an apostolic constitution, which is the most  
 21 solemn way in which new law is promulgated. That tends  
 22 to be for something quite substantial.**  
 23 **There's also what's called a motu proprio, which  
 24 means it's issued on the initiative of the Pope, which  
 25 has the same effect but usually is much more**

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1 Q. Just help us, what is the practical difference between  
 2 the two additional ways in which canon law can be  
 3 amended?  
 4 **A. Well, the effect is the same. It is not that one is  
 5 less weighty than the other. It is more a question of  
 6 the extent of the content. For example, if there were  
 7 to be a major change in a whole area of the law, then an  
 8 apostolic constitution would be used to promulgate it.  
 9 If it's a few sections, a few canons, in the code, then  
 10 a motu proprio would normally be used instead.**  
 11 Q. Is there any sense that perhaps a motu proprio is  
 12 a slightly less formal, less solemn, way of changing  
 13 Canon law that signifies it's of less importance?  
 14 **A. It's less solemn but not necessarily less important.**  
 15 Q. If I understand you correctly, is it that these are made  
 16 known by something being published in one of the Vatican  
 17 papers, is it?  
 18 **A. Yes.**  
 19 Q. Can you help us practically as to how does that end up  
 20 being known in the Roman Catholic Church in England and  
 21 Wales?  
 22 **A. Well, ultimately -- and these things would be reported  
 23 of course, but, ultimately, it's up to the bishops to  
 24 make these things known within their own dioceses, to  
 25 make sure the clergy are aware of that. But there's no**

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<p>1 formal way in which it has to be revealed, as it were,  2 to the clergy of an individual diocese. It is up to the  3 bishop to perhaps include a copy of the text or make it  4 known to the clergy of his own diocese.  5 Q. Going back a stage, how do the bishops in England and  6 Wales know that the Pope has issued a motu proprio in  7 Rome?  8 <b>A. I think what would normally happen, and I have no  9 hands-on experience of that, is the Holy See would  10 notify the President of the Bishops' Conference and then  11 that would be circulated amongst the bishops for them to  12 take forward.</b>  13 Q. I think, just finishing this topic, you say there are  14 other documents that don't actually change Canon law,  15 whereas the apostolic constitutions and the  16 motu proprios do, if I understand it correctly?  17 <b>A. Yes.</b>  18 Q. But there are documents that explain its interpretation  19 and they are generally called instructions?  20 <b>A. That's correct, yes.</b>  21 Q. They are issued with papal approval by what are called  22 Roman congregations. Can you help us with what's  23 a Roman congregation?  24 <b>A. A Roman congregation, we have what's called the  25 Roman Curia, which is a whole assembly of different</b></p> <p style="text-align: center;">Page 129</p>	<p>1 kinds of organisations, a bit like government  2 departments, that help the Pope to carry out his work.  3 The congregations or departments would issue  4 instructions where they were needed to spell out the  5 application, the interpretation of particular laws that  6 apply in their area.  7 Q. I think you say in your statement that one of  8 the congregations that we have already spoken about is  9 the Congregation of Institutes for Consecrated Life, the  10 CICLSAL?  11 <b>A. Yes.</b>  12 Q. Another of the congregations is the CDF?  13 <b>A. That's correct, yes.</b>  14 Q. If the CDF issued an instruction that does not have the  15 effect of changing Canon law, but it is effectively  16 guidance that ought to be followed --  17 <b>A. Yes, that's correct.</b>  18 MS CAREY: Chair, we are about to turn to Canon 1395. May  19 I make a suggestion that we take a pause there?  20 THE CHAIR: Yes. We will return at 3.15 pm.  21 (3.00 pm)  22 (A short break)  23 (3.15 pm)  24 MS CAREY: Thank you, chair, we are turning to paragraph 29  25 in Monsignor Read's witness statement. On screen, we</p> <p style="text-align: center;">Page 130</p>
<p>1 should have there Canon 1395, paragraph 2, which is,  2 I think you say, the main canonical crime applicable to  3 child sexual abuse allegations today, and Canon 1395,  4 paragraph 2, interprets child sexual abuse as an offence  5 against the sixth Commandment of the Decalogue, ie, the  6 sixth of the Ten Commandments, that Commandment being  7 "Thou shalt not commit adultery".  8 <b>A. That's correct. I mean, historically, the church has  9 always seen any kind of sexual sin as an unfolding of  10 the sixth Commandment.</b>  11 Q. The text of the Canon reads:  12 "A cleric who in another way has committed an  13 offence against the sixth Commandment of the Decalogue,  14 if the delict was committed by force or threats or  15 publicly or with a minor below the age of 16 years, is  16 to be punished with just penalties, not excluding  17 dismissal from the clerical state if the case so  18 warrants."  19 Is this an example, Monsignor, in fact, where the  20 Canon has been amended in 2010 by changing the reference  21 to "a minor below the age of 16", to change it to  22 "a minor below the age of 18"?  23 <b>A. That's correct, yes.</b>  24 Q. The point comes, if you go back to the original  25 document, you don't necessarily know that there has been</p> <p style="text-align: center;">Page 131</p>	<p>1 that amendment?  2 <b>A. That's quite true.</b>  3 Q. Can I ask you, please, to have a look at INQ004825 on  4 your screen. I wondered if there was an actual  5 definition of "sexual abuse", and we can see here, if we  6 go down slightly to article 6, the second page. Can you  7 just help us with article 6? What is that -- what is  8 this document?  9 <b>A. Overall, the document deals with a number of different  10 offences which are reserved to the Holy See to  11 adjudicate. Some of them are in areas quite other than  12 sexual ones. For example, attempts to ordain a woman to  13 the priests are contrary to the teaching of the church,  14 and so on, but it also includes offences in this  15 particular area of Canon 1395.</b>  16 Q. Can you just help us, how does article 6 fit in with  17 Canon 1395? Does this sort of amplify what Canon 1395  18 is getting at or ...?  19 <b>A. Well, 1395, if you like, describes the offence, but it  20 doesn't really make it clear, at that point, that  21 adjudicating such cases is reserved to the Holy See.  22 This document was issued in 2001 initially in order to  23 make it clear that this was one of the offences that is  24 reserved for the Holy See to adjudicate and so the text  25 is included here.</b></p> <p style="text-align: center;">Page 132</p>

<p>1 <b>In the form that we have it now, it's slightly</b>  2 <b>expanded/explained, not only by reference to the age of</b>  3 <b>18 rather than 16, but also including those who are</b>  4 <b>vulnerable but not necessarily below that age, because</b>  5 <b>of their health, and so on, and also explicitly</b>  6 <b>including references to pornographic images of minors,</b>  7 <b>as distinct from engagement in person with an</b>  8 <b>individual.</b>  9 Q. Pausing there, is this a document published by the  10 Congregation of the Doctrine of the Faith or did this  11 come as a motu proprio issued by Pope Jean-Paul II?  12 <b>A. It was a motu proprio, yes.</b>  13 Q. Is this what you refer to in your witness statement at  14 paragraph 18(a) as the motu proprio, sacramentorum  15 sanctitatis tutela?  16 <b>A. That's fine. Full marks on the pronunciation.</b>  17 Q. SST, as it is known in short, and I think we will  18 probably stick with that, but is this the position, in  19 2001 Pope Jean-Paul II issued the motu proprio and that  20 included a set of binding procedural norms which set out  21 there in more detail trying to explain the moral grave  22 delicts referred to in Canon 1395?  23 <b>A. That's correct. The second part of the document sets</b>  24 <b>out the procedural norms.</b>  25 Q. That was a motu proprio that was issued, if that be the</p> <p style="text-align: center;">Page 133</p>	<p>1 right word, in 2001. We know there's been a very recent  2 one from the current Pope which I will turn to in  3 a moment.  4 <b>A. Yes.</b>  5 Q. Does a new motu proprio override an old one?  6 <b>A. Yes. Later legislation always overrides previous</b>  7 <b>legislation if it's not compatible with it.</b>  8 Q. We can see in there, for example, when one looks at  9 article 6, paragraph 1.2, in relation to what is  10 described in this document as pornographic images of  11 minors under the age of 14?  12 <b>A. Yes.</b>  13 Q. The law in England and Wales applies to those who are  14 under 18. Can you help with why there is a distinction  15 drawn in a document issued by the Pope for pornographic  16 images under the age of 14? Why is that the age limit?  17 <b>A. I suspect it's largely pragmatic. They felt it was</b>  18 <b>easier to be certain that someone was under 14 rather</b>  19 <b>than someone was under 18. That's a surmise on my part.</b>  20 <b>But I think it has subsequently been changed to raise</b>  21 <b>the age from 14, if I remember correctly.</b>  22 Q. We will turn to the terms of the current motu proprio in  23 a second. But just standing back for a moment, I think  24 that in your paragraph 127 in your witness statement,  25 dealing with Canon 1395, clearly that is said to be</p> <p style="text-align: center;">Page 134</p>
<p>1 a canon that treats child sexual abuse as a failure to  2 observe celibacy. I think you are aware, Monsignor,  3 that certainly the Australian Catholic Bishops'  4 Conference were asked by the Australian Royal Commission  5 to amend the 1983 code to make child sexual abuse  6 allegations articulated as crimes against the child and  7 not crimes of a failure to observe celibacy. Have I got  8 that right?  9 <b>A. You have, yes. I mean, just to explain, the code is set</b>  10 <b>out in sections, and the offences are set out in</b>  11 <b>sections. At the moment, 1395 is in a group of offences</b>  12 <b>that relate specifically to</b>  13 <b>responsibilities/expectations of the clergy, including</b>  14 <b>celibacy. In fact, the previous section of 1395 refers</b>  15 <b>to priests attempting marriage or living with a woman</b>  16 <b>without marriage. So it's in that general context.</b>  17 <b>There's another section, slightly later on, which</b>  18 <b>deals with offences against human life and freedom,</b>  19 <b>including, for example, abortion, physical assault, and</b>  20 <b>so on. To me, as with the Australian Commission, it</b>  21 <b>seems to me that would be a much better place to locate</b>  22 <b>this particular area of legislation, not least because,</b>  23 <b>of course, it applies not only to clergy, but to,</b>  24 <b>indeed, anyone.</b>  25 Q. As it is currently -- where it is currently positioned,</p> <p style="text-align: center;">Page 135</p>	<p>1 I should say, in the 1983 code, that clearly only  2 applies to clergy, for it's only against them that there  3 is the requirement they shall not commit adultery in the  4 clerical context. If you move it, it would then also  5 have applicability to lay members who work within the  6 church?  7 <b>A. It would. I think that's why the suggestion has been</b>  8 <b>made, and it is one that I would certainly endorse.</b>  9 Q. It's all well and good, Monsignor, with respect, for you  10 to endorse it, but if there wanted to be this change  11 required in Rome, how would one practically effect such  12 change? Who would ask for it? How would it happen?  13 <b>A. The Pontifical Council for Legislative Texts which is</b>  14 <b>mentioned elsewhere in the context of recognitio advises</b>  15 <b>the Pope on the whole question of Canon law, form of</b>  16 <b>Canon law and so on. Some years ago, I think about five</b>  17 <b>or six years ago now, a draft reworking of the penal law</b>  18 <b>of the church was circulated for comment, and that would</b>  19 <b>eventually be proposed to the Pope to replace the</b>  20 <b>existing legislation in this whole area.</b>  21 <b>Whether it had any specific recommendations along</b>  22 <b>the lines that have been suggested here, I'm not sure,</b>  23 <b>because that's some years ago. At the moment, it seems</b>  24 <b>to be in the "pending" tray. There is no information as</b>  25 <b>to whether it might appear in the near future, although</b></p> <p style="text-align: center;">Page 136</p>

<p>1 <b>Pope Francis has issued a number of procedural law</b>  2 <b>changes in the last couple of years. So it may well be</b>  3 <b>in the offing, but I have no information on a timeframe</b>  4 <b>or whether that particular change has been incorporated</b>  5 <b>in it.</b>  6 Q. That brings us on to more recent changes and the  7 motu proprio, vos estis lux mundi. Can we look at  8 CHC001930. Chair, it is behind your tab B/1. The words  9 of the Holy Father himself written in the motu proprio.  10 If we look at the first page, one can see there, in the  11 second paragraph, the Pope said:  12 "The crimes of sexual abuse offend Our Lord, cause  13 physical, psychological and spiritual damage to the  14 victims and harm the community of the faithful. In  15 order that these phenomena, in all their forms, never  16 happen again, a continuous and profound conversion of  17 hearts is needed, attested by concrete and effective  18 actions that involve everyone in the church, so that  19 personal sanctity and moral commitment can contribute to  20 promoting the full credibility of the gospel message and  21 the effectiveness of the church's mission."  22 If one turns over the page, you can see there that  23 he ends the introductory point by:  24 ""Therefore, I decree".  25 If one looks at article 1, the scope of</p> <p style="text-align: center;">Page 137</p>	<p>1 the application -- chair and Monsignor, if you scan down  2 this page, one can see there, perhaps in more modern-day  3 language, an explanation of what the delicts against the  4 sixth Commandment of the Decalogue consist of, including  5 forcing someone by violence or threat or abuse of  6 authority to perform or submit to sexual acts;  7 performing sexual acts with a minor or vulnerable  8 person; production, exhibition, possession or  9 distribution, including by electronic means, of child  10 pornography.  11 Monsignor, can you help? The phrase "child  12 pornography" is not one that has been adopted by this  13 inquiry, it is "acts of child sexual abuse" or "indecent  14 images of child sexual abuse". Why is it that the  15 documents that emanate from Rome refer to "child  16 pornography"?  17 <b>A. I'm afraid I can't answer that as to the choice of</b>  18 <b>wording. We have to bear in mind that this is</b>  19 <b>a translation. I would need to see the original text to</b>  20 <b>see whether it's a faithful translation. Because it may</b>  21 <b>be that the problem lies more in the translation than</b>  22 <b>the original. But I can't say that.</b>  23 Q. If one goes down to article 1, paragraph (ii), one can  24 see here now that "minor", it is made clear that that  25 now refers to someone under the age of 18 and there are</p> <p style="text-align: center;">Page 138</p>
<p>1 various descriptions of both a vulnerable person and  2 indeed, at (c), what is intended to be meant by "child  3 pornography".  4 I know that obviously you didn't draft this, but one  5 of the modern terms of child sexual abuse is grooming of  6 a child in preparation for child sexual abuse. There is  7 no explicit reference in this document to the modern-day  8 phenomena of grooming. Can you help us as to why that  9 is absent from this document?  10 <b>A. I can't say why they chose not to incorporate that</b>  11 <b>specifically.</b>  12 Q. Do you think perhaps there is a sense that, although  13 well intentioned, perhaps it is lagging behind  14 modern-day understanding of child sexual abuse?  15 <b>A. It could be. It could simply be the difficulty in</b>  16 <b>preparing an adequate definition for what constitutes</b>  17 <b>grooming from the point of view of a legal text. But,</b>  18 <b>again, that's speculation on my part. I can't say what</b>  19 <b>the reason is.</b>  20 Q. If one looks, then, at article 3 at the bottom of this  21 page, one can see what the motu proprio says in relation  22 to reporting, that whenever a cleric or a member of an  23 institute of consecrated life has notice of, or  24 well-founded motives to believe, that one of the facts  25 referred to in article 1 has been committed, that person</p> <p style="text-align: center;">Page 139</p>	<p>1 is obliged to report promptly the fact to the local  2 ordinary, bishop or religious leader where events are  3 said to have occurred, or to another ordinary among  4 those referred to in various canons. Should one take  5 that as article 3 being an exhort to mandatory  6 reporting?  7 <b>A. Yes.</b>  8 Q. I think article 19 -- we don't need to call it up on  9 screen -- makes clear that the norms apply without  10 prejudice to the rights and obligations established by  11 each place of state laws, namely, that there must  12 be co-operation with state authorities and compliance  13 with national law?  14 <b>A. That's correct, yes.</b>  15 Q. The motu proprio also set out the procedure where the  16 accused was a bishop or a leader of a religious  17 institute. I won't go through the various stages that  18 are set out there.  19 <b>A. No.</b>  20 Q. But can I ask you this: in the event that a bishop or  21 leader is the subject of an allegation, does vos estis  22 prohibit or allow for investigation of the complaint  23 being carried out by a layperson? There may be some  24 misunderstanding about whether lay people can be  25 involved in investigating an allegation against a bishop</p> <p style="text-align: center;">Page 140</p>

<p>1 or religious leader?</p> <p>2 <b>A. Responsibility is given, normally speaking, to the</b></p> <p>3 <b>metropolitan or archbishop, but he doesn't necessarily</b></p> <p>4 <b>carry it out in person. In the absence of anything</b></p> <p>5 <b>specific to the contrary, I don't see why it should be</b></p> <p>6 <b>different from the authorisation of an investigation</b></p> <p>7 <b>that is carried out at diocesan level with regard to</b></p> <p>8 <b>a priest.</b></p> <p>9 <b>At the end of the day, it would be for the</b></p> <p>10 <b>metropolitan or other bishop concerned to take</b></p> <p>11 <b>responsibility for the report that's submitted. But,</b></p> <p>12 <b>clearly, he needs to rely on appropriate professional</b></p> <p>13 <b>advice in conducting the investigation.</b></p> <p>14 Q. We just touched on reporting requirements of national</p> <p>15 law must be followed. Can I pick that up, please, at</p> <p>16 your paragraph 39 of your witness statement. I think</p> <p>17 you say this, that reporting requirements of national</p> <p>18 law must be followed, both in their own right and</p> <p>19 because Canon law expressly requires it. Has there been</p> <p>20 recent guidance issued by the Congregation of</p> <p>21 the Doctrine of the Faith, and if I call up on screen</p> <p>22 CHC001871_001, and if one looks at the section that's</p> <p>23 entitled "Reporting sexual misconduct", does the</p> <p>24 guidance from the CDF say this, that the first phase is</p> <p>25 the reporting:</p> <p style="text-align: center;">Page 141</p>	<p>1 "It is essential that the community be advised that</p> <p>2 they have the duty and the right to report sexual</p> <p>3 misconduct to a contact person in the diocese or</p> <p>4 religious order. These contact details should be in the</p> <p>5 public domain. It is advisable that if and when a case</p> <p>6 of misconduct is referred directly to the bishop or</p> <p>7 religious superior, they refer the information to the</p> <p>8 designated contact person. In every case, and for all</p> <p>9 the phases of dealing with cases, these two points</p> <p>10 should be followed at all times: (i) protocols</p> <p>11 established should be respected; (ii) civil or domestic</p> <p>12 laws should be obeyed."</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. That document coming from the CDF, is that effectively</p> <p>15 guidance that should be followed?</p> <p>16 <b>A. It is, yes.</b></p> <p>17 Q. What if it were not to be followed? Would there be</p> <p>18 a sanction taken against the bishop?</p> <p>19 <b>A. Well, it could be if it's drawn to the attention of</b></p> <p>20 <b>the Holy See that the bishop was not following the</b></p> <p>21 <b>guidance. Then you have the other document, "Like</b></p> <p>22 <b>a Loving Mother", slightly earlier, which provides for</b></p> <p>23 <b>action to be taken against bishops who are negligent in</b></p> <p>24 <b>investigating such matters.</b></p> <p>25 Q. Perhaps we can come on to look at some of the steps</p> <p style="text-align: center;">Page 142</p>
<p>1 taken in relation to clergy where there is an allegation</p> <p>2 of child sexual abuse made against them. I'm looking</p> <p>3 now at your paragraph 45 and the jurisdiction of Canon</p> <p>4 law. Clearly, we have the position that, where there is</p> <p>5 an allegation made, it ought to be reported under</p> <p>6 national law, and in this case to statutory authorities.</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Where the allegation relates to a member of the clergy,</p> <p>9 I think you say this:</p> <p>10 "The second question for the safeguarding</p> <p>11 coordinator is to consider and advise the bishop whether</p> <p>12 the matter falls within the jurisdiction of Canon law."</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. We have got to bear in mind that if the accused is not</p> <p>15 a member of the clergy, no canonical crime can be</p> <p>16 committed?</p> <p>17 <b>A. That's correct, as things stand.</b></p> <p>18 Q. As things stand. A canonical process against a member</p> <p>19 of the clergy, is this right, is adjourned pending the</p> <p>20 outcome of any state action?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. So if there is a police investigation or</p> <p>23 a social services investigation, local authority</p> <p>24 investigation, everything waits until that investigation</p> <p>25 is completed?</p> <p style="text-align: center;">Page 143</p>	<p>1 <b>A. That's correct, yes.</b></p> <p>2 Q. Save for this, that there is in the procedures the</p> <p>3 ability for the clergy member to be given restricted</p> <p>4 rights of either movement or ministry to safeguard</p> <p>5 children?</p> <p>6 <b>A. That's correct, yes.</b></p> <p>7 Q. I'd like to ask you about the canonical process and use</p> <p>8 document CEW000013 as the basis for understanding how</p> <p>9 the procedure works.</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Is this right, Monsignor, that one should look at this</p> <p>12 document in light of there being an investigation by the</p> <p>13 state authorities and those state actions have been</p> <p>14 concluded?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Then we can turn to this to work out how the canonical</p> <p>17 process works thereafter?</p> <p>18 <b>A. That's correct, yes.</b></p> <p>19 Q. I think you say this: there are time limits for bringing</p> <p>20 an action in Canon law. Can you help with what they are</p> <p>21 in respect of child sexual abuse allegations?</p> <p>22 <b>A. Currently, they're 20 years from the last offence.</b></p> <p>23 Q. I think you say this, though, that the CDF can waive the</p> <p>24 time limit?</p> <p>25 <b>A. That's correct. So if the bishop wishes -- feels there</b></p> <p style="text-align: center;">Page 144</p>

<p>1 <b>is something to investigate and that it should be</b>  2 <b>investigated, in his report, he would make a request to</b>  3 <b>the congregation that they waive the time limit to allow</b>  4 <b>a process to continue.</b>  5 Q. So to give an example, perhaps, that this inquiry has  6 encountered, a child might have been abused in the '60s.  7 Come 2019, perhaps their parent dies. They didn't want  8 to make the allegation whilst their parent was alive.  9 When they die, they come forward and make the report.  10 That might be something where the bishop would recommend  11 that the 20-year time limit be waived?  12 <b>A. That's correct, yes.</b>  13 Q. The next stage, once that's been considered, is what's  14 called a preliminary procedure, where you say there that  15 a local diocese investigates every allegation of sexual  16 abuse of a minor by a cleric. That's usually  17 conducted -- is this right? -- by the safeguarding  18 coordinator?  19 <b>A. That would be, yes, usually entrusted to the</b>  20 <b>safeguarding coordinator.</b>  21 Q. In many respects, if there's been a state investigation  22 which has resulted in a conviction or a finding, a lot  23 of the work will have been done already by the state  24 investigation?  25 <b>A. Yes, that's correct, yes.</b></p> <p style="text-align: center;">Page 145</p>	<p>1 Q. But if, for whatever reason, there hasn't been an  2 investigation conducted by the state, or there's been no  3 further action taken against the cleric, the  4 safeguarding coordinator has to conduct the  5 investigation in order for the bishop to consider if the  6 allegation has a semblance of truth?  7 <b>A. Yes.</b>  8 Q. Can I ask you about that phrase, please, and I'm at  9 paragraph 50 in your statement, if it helps. Help us  10 with the semblance of truth test?  11 <b>A. The purpose of the preliminary investigation is simply</b>  12 <b>to decide whether further action is possible or</b>  13 <b>desirable, and so it is not a question of proving</b>  14 <b>anything, but simply that, here is something which</b>  15 <b>constitutes potentially an offence and there's reason to</b>  16 <b>give it credence, whether in terms of what's described</b>  17 <b>or whether it's in terms of the person making the</b>  18 <b>allegation.</b>  19 <b>But it's only intended, if you like, just to say --</b>  20 <b>to make sure that something which is perhaps -- wouldn't</b>  21 <b>constitute an offence isn't investigated. It's not</b>  22 <b>really intended as a bar, simply just as a way of</b>  23 <b>assessing that. Clearly, the presumption would be, you</b>  24 <b>know, if there is something that seems at all possible,</b>  25 <b>then it would be investigated, because it's not to</b></p> <p style="text-align: center;">Page 146</p>
<p>1 <b>prejudge the outcome of the investigation.</b>  2 Q. I think you said in your witness statement the question  3 is essentially, is there something to investigate here?  4 <b>A. Yes.</b>  5 Q. You would describe it as a relatively low threshold; is  6 that right?  7 <b>A. Yes.</b>  8 Q. If the semblance of truth test is met, is it right,  9 then, that the case is referred to the CDF?  10 <b>A. Yes. The bishop would have to draw a conclusion and</b>  11 <b>then, having decided there is a possible case to be</b>  12 <b>answered, he would write to the CDF, giving the basic</b>  13 <b>details, and await their advice on how to proceed.</b>  14 Q. Pausing at this stage of the process. Can I ask you,  15 please, about confidentiality to both the  16 complainant/survivor and the accused during the  17 preliminary investigation, at your paragraph 56.  18 I think you say this, that the 1983 code contains  19 a general provision to protect the rights and reputation  20 and privacy of both the complainant/survivor and the  21 accused. Can you help us with what, in practice, this  22 actually means?  23 <b>A. Well, obviously it means that it should not be divulged</b>  24 <b>any further than necessary. So it's not necessary, at</b>  25 <b>this stage, for the accused to know the identity of</b></p> <p style="text-align: center;">Page 147</p>	<p>1 <b>the complainant, and, clearly, the privacy of</b>  2 <b>the complainant needs to be protected as well.</b>  3 <b>So confidentiality has to be respected by all</b>  4 <b>concerned in the investigation.</b>  5 Q. Is there any sense here that this is perhaps driving at  6 the church protecting its own reputation by not having  7 yet another allegation being made known more widely?  8 <b>A. Well, that's not the purpose of the legislation. The</b>  9 <b>purpose of the legislation is to protect the individuals</b>  10 <b>concerned.</b>  11 Q. It may not be the purpose of the legislation, but are  12 there those who might interpret this as being a good way  13 of trying to keep quiet allegations of child sexual  14 abuse?  15 <b>A. I suppose that's certainly possible.</b>  16 Q. But that's not what you say is the intention?  17 <b>A. It's not what the intention is. The intention is to</b>  18 <b>protect the individuals concerned.</b>  19 Q. At this stage of the process, can you help us, you say  20 the matter is referred to the CDF. Can you help with  21 the practicalities of what actually happens at this  22 stage? What is sent to the CDF?  23 <b>A. Well, the CDF will provide a kind of template on which</b>  24 <b>the details, such as the date of birth and all the rest</b>  25 <b>of it of the accused will be set out, a history of</b></p> <p style="text-align: center;">Page 148</p>

<p>1 the different places where they have served in ministry,                  2 what actions have been taken previously by the diocese,                  3 perhaps if there had been earlier accusations, whether                  4 or not they'd been acted on, and also what has happened                  5 in the courts of the country, any actions that might or                  6 might not have been taken. So they will be provided in                  7 a summary form on a list and sent out with all the                  8 appropriate documentation to accompany that and the                  9 request for guidance on how to take the matter forward.                  10 Q. Where do the documents actually go to?                  11 A. They will be sent usually through the Nunciature as                  12 a post bag to the appropriate department in the                  13 Congregation for the Doctrine of the Faith.                  14 Q. Does the Nuncio open up the bag and read about what the                  15 allegation is against the cleric?                  16 A. My understanding is that the answer will be, no, he just                  17 serves as a postman to forward documents that are sent                  18 to the Holy See.                  19 Q. So via the Nuncio the documents get sent to Rome. The                  20 CDF. Do you know, Monsignor, about how many people                  21 there are working in the CDF to try to deal with all                  22 these allegations worldwide?                  23 A. I'm not sure about the particular department that deals                  24 with these allegations. Certainly, if you look at the                  25 annual directory of the Holy See, what's called the</p> <p style="text-align: center;">Page 149</p>	<p>1 <b>Annuario Pontificio, there are about 40 people who work</b>                  2 <b>in the whole congregation. So I'd hazard a guess that</b>                  3 <b>perhaps a dozen or so people in this particular section,</b>                  4 <b>but that's a guess on my part. I don't know the exact</b>                  5 <b>details.</b>                  6 Q. Then, if one goes back to the document on our screen,                  7 once the preliminary stage has been completed, the                  8 document is sent to the CDF -- do I understand this                  9 rightly -- the CDF has effectively a number of options                  10 about how to deal with the canonical process: there is                  11 what is known as the judicial process, and the                  12 administrative process, and I think, in due course,                  13 there is also reference to the Pope dealing with it                  14 himself. Can I just stick with these two penal                  15 processes. What's the difference between the judicial                  16 process and the administrative process?                  17 A. The judicial process involves a formal trial, so, in                  18 principle, it is more complex, because the accused is                  19 entitled to representation and, if the complainant                  20 wishes to take part by seeking compensation, they, too,                  21 are entitled to be represented and have access to the                  22 details of the case, and so on, and it will be                  23 adjudicated by three judges. Good practice would say                  24 they would be judges from outside the diocese. And the                  25 judges would then decide on the appropriate penalty.</p> <p style="text-align: center;">Page 150</p>
<p>1 <b>If it is an administrative process, then a lot of</b>                  2 <b>the formalities are omitted, and the whole process</b>                  3 <b>really is dealt with by the ordinary, the bishop</b>                  4 <b>himself, with the aid of two assessors, who help him to</b>                  5 <b>evaluate the evidence, but the decision is his alone,</b>                  6 <b>and there's not the same protection in terms of legal</b>                  7 <b>representation, either for the accused or for</b>                  8 <b>a complainant who wishes to seek compensation.</b>                  9 <b>On the other hand, it's a simpler and quicker</b>                  10 <b>process.</b>                  11 Q. Do you know if there are any statistics kept on how                  12 many, within England and Wales, judicial processes there                  13 are every year in respect of child sexual abuse                  14 allegations?                  15 A. I'm not aware of them myself. I mean, each diocese                  16 would keep its own record as to what cases are handled                  17 by the tribunal. Whether or not CSAS keeps a record of                  18 that, I couldn't say, and I'm not quite sure whether the                  19 annual statistical return each diocese has to send to                  20 the Holy See would reveal that. It does ask detailed                  21 questions on tribunals and matrimonial cases, but I'm                  22 not sure that it seeks the same detail for cases of this                  23 kind.                  24 Q. I think you say in your statement that the                  25 administrative process is actually more favoured by the</p> <p style="text-align: center;">Page 151</p>	<p>1 Congregation of the Doctrine of the Faith?                  2 A. Yes.                  3 Q. Is it likely that the message coming back from the CDF                  4 is, "Yes, institute a canonical process. Please do so                  5 via the administrative procedure"?"                  6 A. That seems to be the preferred option, presumably by                  7 reason of speed.                  8 Q. Just for completeness' sake, I think the standard of                  9 proof, whichever procedure is adopted, is that of moral                  10 certitude?                  11 A. That's correct.                  12 Q. Dealing then finally with the end stage of the process,                  13 disciplinary measures. If we can turn on to page 2 of                  14 this document. It says there:                  15 "Where the accused priest has admitted to his crimes                  16 and has accepted to live a life of prayer and penance,                  17 the CDF authorises the local bishop to issue a decree                  18 prohibiting or restricting the public ministry ... Such                  19 decrees are imposed through a penal precept which would                  20 entail a canonical penalty for a violation of                  21 the conditions of the decree, not excluding dismissal                  22 from the clerical state."                  23 Can you just try to break that down? At the end of                  24 a canonical process in respect of a child sexual abuse                  25 allegation, if there were a finding against the cleric,</p> <p style="text-align: center;">Page 152</p>

1 what would you expect to be the disciplinary measure  
 2 taken against him?  
 3 **A. I would expect, particularly these days, under normal**  
 4 **circumstances they would be dismissed from the clerical**  
 5 **state. There have been some cases, perhaps, where there**  
 6 **has been a very elderly or frail priest where they have**  
 7 **just been -- had all possibility of public ministry**  
 8 **removed but haven't been dismissed, but the effect might**  
 9 **be the same, in the sense they're not ministering in**  
 10 **public. I'm not sure that it sends the right message.**  
 11 Q. No, I was just going to ask you, do you think it is  
 12 right, actually, in your own personal opinion, that if  
 13 there is such a finding against a cleric, however old,  
 14 whatever restrictions there are on their ability to  
 15 minister, that they shouldn't have the sanction of  
 16 dismissal imposed on them?  
 17 **A. I think age should not be taken into account when it**  
 18 **comes to that, personally. That's my personal view.**  
 19 Q. I'm asked to deal with one matter with you in relation  
 20 to paragraphs 75 and 76 of your witness statement, which  
 21 again picks up on the question of confidentiality. Can  
 22 you help me, Monsignor, with some of the canons and the  
 23 articles which make reference to the pontifical secret?  
 24 Help us, firstly, what is the pontifical secret and then  
 25 how does it apply in the cases we are looking at?

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1 **A. Yes.**  
 2 Q. I'm looking now at paragraph 21 in your witness  
 3 statement. Is this the position, that CSAS policies and  
 4 guidance are not, obviously, Canon law, and so a breach  
 5 of them cannot result in a canonical enforcement action?  
 6 **A. That's correct, yes.**  
 7 Q. If a bishop disregards a policy and guidance, I think  
 8 you say at paragraph 22 a complaint may be made about  
 9 his behaviour to the Holy See through the  
 10 Apostolic Nuncio. The Apostolic Nuncio would channel  
 11 any such complaint to the appropriate Roman  
 12 congregation?  
 13 **A. Yes.**  
 14 Q. Help us, what would the Nuncio do in this position where  
 15 there is a bishop potentially disregarding a policy or  
 16 guidance?  
 17 **A. Well, he would report, presumably, to the Congregation**  
 18 **of Bishops to say that Bishop So and So is not**  
 19 **implementing the policies, and they would then consider**  
 20 **the matter and either -- presumably, through the Nuncio,**  
 21 **would then contact the bishop concerned to investigate**  
 22 **the matter further. At the end of the day, the document**  
 23 **"Like a Loving Mother" exists for the procedure to be**  
 24 **taken where it's perceived that a bishop is negligent in**  
 25 **this area.**

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1 **A. There's a general provision in the previous section,**  
 2 **Canon 1455, on confidentiality to be observed by**  
 3 **tribunal staff. It goes on to say that the particular**  
 4 **oath of secrecy can be imposed if necessary.**  
 5 **The pontifical secret is to say that that burden is**  
 6 **imposed by virtue of this article on cases dealing with**  
 7 **child sexual abuse to preserve confidentiality. But,**  
 8 **basically, it applies to the officials of the tribunal.**  
 9 **That's really what it's intended to cover, to make sure**  
 10 **that confidentiality is observed by all handling the**  
 11 **case.**  
 12 Q. Again, as I asked you in relation to the last reference  
 13 to confidentiality, is there any sense that this canon  
 14 is used to try and avoid scandal and protect the  
 15 reputation of the church in child sexual abuse cases?  
 16 **A. That's certainly not the intention.**  
 17 Q. Might it be how some might read these canons?  
 18 **A. It is certainly how some might, and indeed have, read**  
 19 **it. But that's not the intention. The intention is to**  
 20 **preserve the confidentiality for those concerned.**  
 21 **I think the more recent documents issued from the**  
 22 **Holy See point out that there should be no imposition of**  
 23 **silence on the people concerned, the complainants.**  
 24 Q. May I turn to a different topic? CSAS policies and  
 25 recognitio and recommendation 72.

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1 Q. So is it possible that, in this respect, the Nuncio  
 2 themselves may speak to the bishop concerned directly  
 3 about the potential breach, or would the Nuncio speak to  
 4 the head of the Catholic Bishops' Conference and ask him  
 5 to have a word? I'm trying to get a sense of how it  
 6 works practically.  
 7 **A. I think it would be a question of what instructions the**  
 8 **Nuncio receives from the congregation in Rome. I don't**  
 9 **think the President of the Bishops' Conference, as such,**  
 10 **would necessarily be involved. I think -- my thought**  
 11 **is, it would be a matter where the Nuncio would be asked**  
 12 **to speak to the bishop concerned, but he might well fill**  
 13 **in the President of the Bishops' Conference. Again,**  
 14 **that's speculation on my part.**  
 15 Q. You say, however, that it is possible to convert the  
 16 policies and guidance into legislation by obtaining  
 17 papal recognitio or recognition?  
 18 **A. That's correct.**  
 19 Q. The chair and panel know that Cumberlege made  
 20 recommendation 72 -- we may look at it in a moment if we  
 21 need to -- in relation to trying to give legislative  
 22 effect, effectively, to what they were recommending.  
 23 But is it right, Monsignor, that, prior to this, work  
 24 was ongoing in this regard, and can we have a look,  
 25 please, at CSA005833 behind our tab 3. These are draft

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1 minutes from a meeting that's headed "Canon law and  
 2 Child Protection Policy and Procedure" from  
 3 17 October 2005. I think, in fact, you were present at  
 4 this meeting?  
 5 **A. That's correct, yes. Following on from the  
 6 Nolan Report, there were some concerns amongst the  
 7 clergy that bishops were not really following Canon law.  
 8 That led to the setting up of a Working Party presided  
 9 over by Bishop Kevin Dunn, who was a Canon lawyer by  
 10 training, and with Eileen Shearer from COPCA, as it was  
 11 then, and myself and Monsignor Hogan to look into that.  
 12 So this was the purpose of the working group that was  
 13 set up. It continued for a couple of years but then  
 14 eventually, unfortunately, Bishop Kevin Dunn was taken  
 15 ill and died. So with the imminence of the publication  
 16 of the Cumberlege, I think the whole thing went onto the  
 17 back burner.**  
 18 Q. We can see there:  
 19 "What do we want to do? What is our purpose at this  
 20 meeting?  
 21 "We want to translate the child protection  
 22 guidelines [as they were called under the Nolan Report]  
 23 into canonical language in a way that they are  
 24 harmonised with Canon law, whilst preserving the  
 25 paramouncy principle and at the same time preserving

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1 **Holy See in order to enact legislation.**  
 2 Q. Is that step 2: seeking the mandate?  
 3 **A. That's step 2, yes.**  
 4 Q. From there, I think we go to making a general decree; is  
 5 that right?  
 6 **A. That's right. So once permission has been given for  
 7 them to take that step, they would then prepare the text  
 8 of the general decree, and that would be voted on by the  
 9 Bishops' Conference at a plenary session. It requires  
 10 a two-thirds majority.**  
 11 Q. Just pausing there. In respect of recommendation 72 and  
 12 the wording of the general decree, that was approved,  
 13 I think, on 28 June of this year?  
 14 **A. So I understand, yes.**  
 15 Q. And then sent to the Holy See for recognition?  
 16 **A. Yes.**  
 17 Q. We know that the text was hand-delivered by the  
 18 cardinal, and in the final step, step 5, is what's  
 19 called promulgation. What does that mean?  
 20 **A. That means making a law known so that people can follow  
 21 it. So that would then be officially issued as a text  
 22 by the Bishops' Conference. In former times, it was  
 23 done through a printed journal of the Bishops'  
 24 Conference called "Briefings", but that has ceased  
 25 publication. The intention now is that it will be made**

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1 the rights of all involved. We do recognise that there  
 2 may be a conflict of issues here, but the protection of  
 3 children has to take priority."  
 4 Can I turn then to your second statement which deals  
 5 with the process of obtaining recognitio. I can  
 6 suspect, Monsignor, we can take this relatively shortly,  
 7 because, as you're aware, there has now been a general  
 8 decree and I think that has been given to the relevant  
 9 department in Rome by the cardinal himself?  
 10 **A. Yes, I understand that to be the case.**  
 11 Q. Can you just help us, in a nutshell, explain the  
 12 procedures? I think there are five steps that you set  
 13 out in your witness statement, starting with the  
 14 proposal?  
 15 **A. Yes. For a matter to be considered by the Bishops'  
 16 Conference, a proposal has to be put forward, and that  
 17 would then go first to the Standing Committee of  
 18 the Bishops' Conference to be discuss and put on the  
 19 agenda. So that would probably be in fairly general  
 20 terms. Then, if it was decided that it was appropriate  
 21 to enact legislation, then unless the law itself  
 22 provided, as it does in some cases, for Bishops'  
 23 Conference to legislate on that particular point, they  
 24 would need to get a mandate, faculty, whatever you like  
 25 to call it, but the technical term is mandate, from the**

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1 **known through a page on the website of the Bishops'  
 2 Conference.**  
 3 Q. May I ask you this, Monsignor. You were clearly  
 4 involved, back in 2005, in trying to bring about this  
 5 legislative change. Can you help with why it has taken  
 6 14/15 years, nearly, to get to the stage where the  
 7 actual text has gone to Rome?  
 8 **A. I can only say, in general terms, that, first of all,  
 9 Cumberlege was issued, and --**  
 10 Q. That was 2007, though?  
 11 **A. It had many recommendations. I think one of  
 12 the problems that faced the Bishops' Conference and CSAS  
 13 was how much of detailed policy ought to be included.  
 14 I think our advice had been, prior to this, that you  
 15 shouldn't include too much detail because of  
 16 the difficulty of making changes subsequently, but the  
 17 question is, how much is too much?**  
 18 Q. The contrary argument to that is, if you are going to  
 19 produce a document which is not particularly detailed,  
 20 why does it take the best part of 12 years, post  
 21 Cumberlege, to draft something that doesn't contain too  
 22 much detail?  
 23 **A. I can't answer that question from personal knowledge.**  
 24 Q. I think you can say this, though, you can help us with  
 25 amendments to general decrees which have received

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<p>1 recognition. You say this:</p> <p>2 "To the extent that a general decree [paragraph 37]</p> <p>3 has received recognition, it will be necessary to carry</p> <p>4 out the entire procedure again if there was a need to</p> <p>5 change the content of that decree."</p> <p>6 You say, for example, if policies and procedures</p> <p>7 reflect best practice on one date, it may be given the</p> <p>8 force of law and, of course, if you want to change them</p> <p>9 does it affect recognitio?</p> <p>10 <b>A. You would have to go through the same procedure again to</b></p> <p>11 <b>change the text of a general decree, which is why it</b></p> <p>12 <b>would seem best not to be too detailed in the text of</b></p> <p>13 <b>the decree itself, but to perhaps refer to other</b></p> <p>14 <b>documents, which I believe is what the proposed text</b></p> <p>15 <b>does.</b></p> <p>16 Q. In relation to recommendation 72, it is said that it</p> <p>17 will provide people with recourse to Rome if there is</p> <p>18 a breach of the policy or the guidance. I want to just</p> <p>19 try to understand how practically -- practically, what</p> <p>20 would happen if there were a breach of</p> <p>21 recommendation 72?</p> <p>22 <b>A. Well, once the legislation has been put in place,</b></p> <p>23 <b>ie recognitio and promulgation, if a bishop either</b></p> <p>24 <b>failed or refused to implement what it contained, then</b></p> <p>25 <b>that would be a matter for the Nuncio to report to the</b></p> <p style="text-align: center;">Page 161</p>	<p>1 <b>Holy See for action to be taken as appropriate.</b></p> <p>2 Q. I think what I'm trying to understand is, what action</p> <p>3 would be taken? What would practically happen?</p> <p>4 <b>A. Well, I suspect, initially, the Holy See would try to</b></p> <p>5 <b>persuade the bishop that he ought to do what he's</b></p> <p>6 <b>required to do. The ultimate sanction is open to the</b></p> <p>7 <b>Holy See to either effectively strip the bishop of his</b></p> <p>8 <b>powers and put someone else in with them, leaving him in</b></p> <p>9 <b>office or simply to remove him from office altogether.</b></p> <p>10 Q. I'm just trying to understand practically, if you were</p> <p>11 a victim or survivor who felt that a bishop was not</p> <p>12 complying with a CSAS policy or procedure, how realistic</p> <p>13 is it to expect them to write to the Nuncio to chase the</p> <p>14 matter up with Rome? Do you see what I'm trying to</p> <p>15 drive at? What practical difference does this</p> <p>16 recommendation actually have?</p> <p>17 <b>A. Well, clearly, for action to be taken, someone needs to</b></p> <p>18 <b>make a complaint. I think what it is doing is putting</b></p> <p>19 <b>a public mechanism in place to enable that to happen.</b></p> <p>20 Q. Final topic, please, and that is in relation to the</p> <p>21 sacramental seal and mandatory reporting. Monsignor,</p> <p>22 I am turning now, please, I think, to start at your</p> <p>23 paragraph 95 in your first witness statement behind A/1.</p> <p>24 You set out there, and perhaps we can call up on screen,</p> <p>25 please, CHC001929_035, firstly. Paragraph 95 at the</p> <p style="text-align: center;">Page 162</p>
<p>1 bottom there, thank you. You say here:</p> <p>2 "The sacramental seal is an ancient and fundamental</p> <p>3 matter of Catholic Church doctrine. It applies whenever</p> <p>4 a Catholic goes to confess his or her sins</p> <p>5 (a 'penitent') in the presence of a priest in confession</p> <p>6 (a 'confessor')."</p> <p>7 For these purposes, I will just adopt or call it</p> <p>8 "the priest". Some people might think the penitent is</p> <p>9 the confessor. If we go over the page, we can see</p> <p>10 there, I think, a description of the sacramental seal</p> <p>11 taken from what is called chapter 2 of the catechism of</p> <p>12 the Catholic Church. It is not a document we are</p> <p>13 familiar with. What is the catechism of</p> <p>14 the Catholic Church?</p> <p>15 <b>A. It's a large book that basically sets out the teachings</b></p> <p>16 <b>of the church in every aspect of its teaching -- moral,</b></p> <p>17 <b>belief, life of prayer and so on. It is quite a large</b></p> <p>18 <b>volume that covers a very wide area of material.</b></p> <p>19 Q. The description in that book of the sacramental seal is</p> <p>20 what we can see here set out at paragraph 1467?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. "Given the delicacy and greatness of this ministry and</p> <p>23 the respect due to persons, the church declares that</p> <p>24 every priest who hears confessions is bound under very</p> <p>25 severe penalties to keep absolute secrecy regarding the</p> <p style="text-align: center;">Page 163</p>	<p>1 sins that his penitents have confessed to him. He can</p> <p>2 make no use of knowledge that confession gives him about</p> <p>3 penitents' lives. This secret, which admits of no</p> <p>4 exceptions, is called the 'sacramental seal' because</p> <p>5 what the penitent has made known to the priest remains</p> <p>6 'sealed' by the sacrament."</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Do I understand this correctly, that the principle</p> <p>9 underlying the sacramental seal is this, that a person</p> <p>10 who is going to confession and confessing his sin to</p> <p>11 God, the priest hears his confession as God's</p> <p>12 representative?</p> <p>13 <b>A. Yes, that's correct.</b></p> <p>14 Q. So it is meant to signify that, in this process, it is</p> <p>15 a secret between the person seeking confession and God,</p> <p>16 which the priest, in a sense, overhears?</p> <p>17 <b>A. Yes, that would be the understanding.</b></p> <p>18 Q. Is the Pope free to change what is said about the</p> <p>19 sacramental seal and why it is so inviolable?</p> <p>20 <b>A. Not in my view, no, because it is something which is</b></p> <p>21 <b>quite fundamental to the understanding of the nature of</b></p> <p>22 <b>the sacrament.</b></p> <p>23 Q. Can we look at what the position is where someone may go</p> <p>24 into confession and confess to child sexual abuse.</p> <p>25 I think there is some CSAS guidance, if we can call up</p> <p style="text-align: center;">Page 164</p>

<p>1 on screen, please, INQ004677. We should have coming up  2 on screen the current guidance on the CSAS website,  3 headed "Disclosure of abuse and the sacrament of  4 reconciliation". Thank you very much.  5 Monsignor, you have obviously been a priest now for  6 a number of years. Help us, please, with what is the  7 guidance given to priests if someone goes in and  8 confesses to having committed child sexual abuse?  9 <b>A. Well, they cannot make any use outside of that  10 particular moment of confession of the information they  11 have received. What they should do is encourage the  12 person concerned to -- did you say "victim" or --</b>  13 Q. No, at the moment, it is someone confessing to it.  14 A perpetrator.  15 <b>A. What they should do is make them realise the seriousness  16 of what has happened, that they have an obligation in  17 justice, especially to the victim, but also to society  18 in general, to do what they can to remedy that, and that  19 that should involve reporting the matter to the police.  20 It can't be required as an absolute condition for  21 granting sacramental absolution, but if someone were not  22 willing to do that, you would have to have a serious  23 question mark about whether they were genuinely  24 repentant.</b>  25 Q. Can I pause there. In this scenario, if someone</p> <p style="text-align: center;">Page 165</p>	<p>1 confesses to the priest that they have committed child  2 sexual abuse, the priest advises them, urges them,  3 encourages them, to report the matter to the police, but  4 the person says, "No, I'm not going to", is that  5 a situation where you, as a priest, would grant  6 absolution?  7 <b>A. I think you would want to defer it and say, "Come back  8 when you have thought about it".</b>  9 Q. In the meantime, though, there would be no obligation --  10 in fact, I will start again. You would not be permitted  11 to go to the police and say, "Someone told me in  12 confession today they were abusing a child"?  13 <b>A. No, I wouldn't be able to do that.</b>  14 Q. In the scenario where a priest did do that, let's say  15 that there was a confession and they went straight to  16 the police and said, "John Smith has told me that he  17 abuses a child", what would be the sanction or action  18 taken against the priest?  19 <b>A. Well, they would incur excommunication automatically by  20 the fact that they had done this.</b>  21 Q. Can we be clear about what excommunication is?  22 <b>A. It would mean that they were not able to either receive  23 or confer the sacraments or take part in the public  24 worship of the church.</b>  25 Q. It doesn't mean they are not a priest anymore?</p> <p style="text-align: center;">Page 166</p>
<p>1 <b>A. No, but they would not be able to exercise that --  2 clearly, you know, people can play games. If they  3 didn't tell anyone, who would know? But they would be  4 barred by the church's law from exercising their  5 ministry. And they would need to go to confession  6 themselves and to seek the lifting of  7 the excommunication, and that is something which is  8 reserved to the Holy See.</b>  9 <b>So the Holy See would set out conditions for lifting  10 the excommunication.</b>  11 Q. I think you said at your paragraph 102:  12 "A penalty for a priest who directly breaks the  13 sacramental seal is automatic excommunication, meaning  14 they are excommunicated from the moment of the act  15 onwards."  16 <b>A. That's correct.</b>  17 Q. "Excommunication can only be lifted if the  18 excommunicated person amends their behaviours and  19 repents."  20 <b>A. Yes.</b>  21 Q. May I ask you this: we have heard about, obviously,  22 dismissal and a return to the lay state. On one view,  23 it sounds like someone who breaks a sacramental seal for  24 the best of reasons, ie, reporting child abuse to the  25 police, is somehow treated more harshly than</p> <p style="text-align: center;">Page 167</p>	<p>1 a perpetrator who waits many years for laicization. Can  2 you just help explain if there is a discord between the  3 approach of the church here?  4 <b>A. I think the intention is to emphasise the seriousness of  5 it by making it clear that it is something that happens  6 automatically. In fact, as I mentioned in my own  7 evidence, as a reform that might be put forward,  8 a similar requirement might be introduced with regard to  9 the whole area of child abuse, that they would incur  10 a penalty automatically.</b>  11 Q. I think you're talking, Monsignor, about your  12 paragraph 130. I want to come on to that in a moment,  13 if I may.  14 <b>A. Simply to say there is a distinction there at the  15 moment, in that one requires a process, and the other  16 happens automatically.</b>  17 Q. Before we leave disclosure of abuse in the sacrament of  18 reconciliation, let me ask you this: what's the position  19 if a child comes in and says that they are the victim of  20 sexual abuse or that they know someone associated with  21 them who is the victim of child sexual abuse? What is  22 the guidance given to priests in that situation?  23 <b>A. Again, they can't mention what has been said in the  24 context of confession. What they ought to do is to  25 encourage the person concerned to take the matter</b></p> <p style="text-align: center;">Page 168</p>

1 further outside, and either invite them to go to whoever  
 2 the appropriate authority is or, if they wanted to raise  
 3 it with them, to do so outside of confession, either on  
 4 a separate occasion or perhaps in that particular  
 5 context, if they have given absolution at the end of  
 6 the sacramental rites, the sacrament is now concluded.  
 7 So they can say, "Would you be willing to repeat what  
 8 you told me after I have given you absolution?", because  
 9 then what they say after that point is not covered by  
 10 the sacramental seal and they could then take that  
 11 further.

12 Q. So if it were repeated, either from the person  
 13 confessing or, indeed, the person saying they were the  
 14 victim of it, if it is repeated outside the confessional  
 15 box, then you would be required to go and report to  
 16 statutory authorities?

17 A. Yes.

18 Q. In your experience of 43 years as a priest, have you  
 19 ever had anyone confess to you that they have abused  
 20 a child or were interested in abusing a child, had  
 21 sexual inclinations in that way?

22 A. No.

23 Q. Have you ever had a victim or someone associated with  
 24 a victim come to you and say they were aware someone was  
 25 being abused or were the victim of abuse themselves?

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1 abuse. Just help me, please, Monsignor, with what it  
 2 was you're trying to set out for the inquiry at that  
 3 paragraph?

4 A. Well, if there is an automatic penalty, like  
 5 excommunication, as we mentioned in the case of a priest  
 6 who breaks the seal, for example, then machinery is  
 7 there to enable that case to be referred to the Holy See  
 8 and for them to lift, or not, the penalty in an entirely  
 9 confidential way. So what would happen would be that  
 10 a reasonable degree -- a priest hearing confession would  
 11 agree a *nom de plume* with the penitent and he would then  
 12 write to one of the departments in Rome called the  
 13 Apostolic Penitentiary setting out the situation and  
 14 using the *nom de plume* and seeking their advice and  
 15 permission to lift the penalty of excommunication.  
 16 The penitentiary would then reply to the priest with  
 17 a sealed envelope to be given to the person who  
 18 confessed.  
 19 So the priest would, at that first stage, then  
 20 agree, "Come back to me in two weeks, three weeks, and  
 21 mention your *nom de plume*, and if I have received the  
 22 letter at that stage, I will then hand that over to  
 23 you". So the penitentiary would give direct advice to  
 24 the person making the confession. They would also give  
 25 advice to the priest as to whether and under what

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1 A. No.

2 Q. There may be some misunderstanding by some in the room  
 3 that even asking you these questions is somehow a breach  
 4 of the sacramental seal. How is it that you can explain  
 5 in general terms that you have never had anyone either  
 6 confess or complain about sexual abuse?

7 A. Breach of the seal involves identifying a penitent,  
 8 someone going to confession, with what they have  
 9 confessed. So a direct breach would be, as you  
 10 indicated earlier, "John Smith said so and so". That  
 11 would be a direct breach of the seal. An indirect one  
 12 might be no name is mentioned, but you say something  
 13 which enables someone else to make a link between the  
 14 person concerned and what they confessed. So entirely  
 15 generic references don't constitute a breach of  
 16 the seal, provided, as I said, that there can be no  
 17 identification between an individual and what they might  
 18 have confessed.

19 Q. Thank you very much. Then just finally this, please --  
 20 I'm afraid I interrupted you I think when you were going  
 21 on to consider what you set out at paragraph 130 of your  
 22 witness statement and what you describe there in the  
 23 heading is the impossibility of reforming the  
 24 sacramental seal and procedural changes that could be  
 25 made to the handling of confessions of child sexual

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1 conditions he could lift the penalty.

2 Q. We asked you for a sort of a suggestion as to how there  
 3 might be a change of procedure, but would you agree that  
 4 that perhaps sounds a rather cumbersome way of trying to  
 5 get around the sacramental seal and one that, in  
 6 practical terms, is actually quite difficult to manage?

7 A. It's not a way of getting around the sacramental seal.  
 8 It is a way of making it possible for a penalty, for  
 9 example, perhaps to be applied to lay people who are  
 10 guilty of sexual abuse in a way that they're not at the  
 11 moment.

12 Q. Monsignor, we discussed earlier and looked at earlier  
 13 the potential reform of Canon law by moving, for  
 14 example, Canon 1395 to a different section in the code.  
 15 Can I ask you finally, is there any other matter that  
 16 you think needs -- there needs to be a reform of Canon  
 17 law in respect of child sexual abuse allegations and, if  
 18 so, what that is and how it would be brought about?

19 A. I think the church is on a learning curve, and I know  
 20 that sounds trite, but it is true. I think that, you  
 21 know, it will become apparent that there are other  
 22 things that could be done as has been mentioned before,  
 23 for example, the whole question of compensation, other  
 24 means that might need to be introduced. So I'm not sure  
 25 that there are procedural changes that need to be made.

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<p>1 <b>But there may need to be other changes that will respond</b>                  2 <b>more adequately in putting the victim much more at the</b>                  3 <b>centre.</b>                  4 <b>I think the law, as it is structured, focuses on the</b>                  5 <b>perpetrator and not on the victim, and I think that</b>                  6 <b>that's a balance that perhaps could, and should, be</b>                  7 <b>addressed in future changes.</b>                  8 Q. I'm asked to ask you this finally: we heard from                  9 Dr Limbrick, the chair of CSAS, and she was asked this                  10 question: do you believe there is a tension between the                  11 paramouncy principle and the confidentiality of                  12 a disclosure in the context of the sacramental seal of                  13 confession? I am going to ask you the same question.                  14 <b>A. I think there is a tension there.</b>                  15 MS CAREY: Thank you. Chair, any questions from you or the                  16 panel?                  17 THE CHAIR: No, we have no questions. Thank you very much,                  18 Monsignor.                  19 (The witness withdrew)                  20 MS CAREY: Chair, that concludes the evidence for today and                  21 we will resume at 10.30 am tomorrow with the evidence of                  22 Edi Carmi. Thank you.                  23 (4.19 pm)                  24 (The hearing was adjourned to                  25 Tuesday, 5 November 2019 at 10.30 am)</p> <p style="text-align: center;">Page 173</p>	<p style="text-align: center;">I N D E X</p> <p>1                  2                  3 Statement of MS SUSIE HAYWARD (read) .....1                  4                  5 SISTER JANE BERTELSEN (sworn) .....17                  6                  7 Examination by MR SAAD .....17                  8                  9 Questions from THE PANEL .....47                  10                  11 MS KATHY JANINA PERRIN (sworn) .....48                  12                  13 Examination by MS CAREY .....48                  14                  15 Questions from THE PANEL .....110                  16                  17 MONSIGNOR GORDON FRANCIS READ .....112                  18 (sworn)                  19                  20 Examination by MS CAREY .....112                  21                  22                  23                  24                  25</p> <p style="text-align: center;">Page 174</p>

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