

<p>1 Wednesday, 26 July 2017 2 (10.30 am) 3 Welcome by THE CHAIR 4 THE CHAIR: Good morning. I am Alexis Jay. I am the chair 5 of the Independent Inquiry into Child Sexual Abuse and 6 I am sitting today with the other panel members of 7 the inquiry: Ivor Frank, Professor Sir Malcolm Evans and 8 Drusilla Sharpling. 9 Welcome to this, the final day, Day 20, of 10 the public hearings of the case study into child 11 migration programmes which is part of the inquiry's 12 investigation into protection of children outside the 13 UK. 14 Today we are hearing the closing statements from 15 core participants or their legal representatives, and 16 following any preliminary matters that are to be raised, 17 we will hear from people in the following order: from 18 the Child Migrants Trust; then Mr David Hill; then 19 Mr Oliver Cosgrove's legal representative, by which 20 point it should probably be lunchtime. We will take an 21 hour's break and then we will hear from Barnardo's, the 22 Sisters of Nazareth, the Catholic Council for IICSA, the 23 Secretary of State for Health and finishing with the 24 inquiry counsel. 25 It is important that we stick to time today in order</p> <p style="text-align: center;">Page 1</p>	<p>1 treated. I remember the meeting very clearly. I was 2 very touched by the points being made and indeed there 3 was a note taker present, sitting at the board table 4 immediately behind Mr Johnston's chair, contrary to his 5 recollection. I am sure the FCO would look 6 sympathetically at any request for its release. 7 "Contrary to Mr Johnston's recollection, the meeting 8 was conducted in a friendly manner. Mr Johnston was, 9 understandably, very anxious during the meeting which 10 I took in the soft seating part of the room to help him 11 relax. It was he who claimed the government was waiting 12 for the migrants to die. I made a comment that I was 13 sure that wasn't the case and I regretted that so many 14 had died to date, as he had just told me about the 15 suicide rate. He took me through the issue of 16 the reduction in funding for the Child Migrants Trust. 17 I said there was little I could do to get it restored 18 but I was sympathetic to the need for continuing 19 support. We parted amicably and indeed I drew on the 20 information given to me on many occasions during my time 21 in Australia. I also contacted relevant departments to 22 make them aware of the meeting. Downing Street 23 subsequently sought additional briefing. 24 "It is testing credulity to the limit to suggest the 25 representative of the British Government in Australia</p> <p style="text-align: center;">Page 3</p>
<p>1 to give everyone a fair chance to present their 2 statements. Timings have been agreed in advance, and 3 I would be grateful if people could adhere to these as 4 far as is possible. 5 Ms Hill, are there any preliminary issues you wish 6 to raise? 7 Housekeeping 8 MS HILL: Good morning, chair. There are two preliminary 9 issues to address, please, before the CMT's submission. 10 First of all, chair, you will remember the evidence 11 given by Mr Johnston last week about his conversation 12 with the British High Commissioner in Australia. I have 13 some further evidence to read relating to that. This is 14 a letter or an email that's been received from the Right 15 Honourable Baroness Liddell of Coatdyke who says this: 16 "Dear Madam Chairman, I refer to evidence taken at 17 the hearings held on July 20. In particular, that given 18 by Mr Norman Johnston where he alleges that I said the 19 UK Government was not interested in the claims of UK 20 migrants and was waiting for you all to die. I did, 21 indeed, meet Mr Johnston when I was British High 22 Commissioner for Australia. I met him and one other in 23 my office in Canberra at their request because of 24 a genuine concern on my own part and the part of 25 the government about how child migrants had been</p> <p style="text-align: center;">Page 2</p>	<p>1 would criticise that government and would act in such 2 a confrontational way and in my case it is doubly 3 improbable given that I was, for eight years, a senior 4 member of that government and covered by collective 5 responsibility. I regret that I was not contacted in 6 advance of the hearing, given that Mr Johnston had given 7 written evidence and I could have suggested contacting 8 the FCO for the official report which would have 9 contradicted Mr Johnston's memory of events. 10 "I would be grateful if this letter could be read 11 into evidence as some attempt to set the record 12 straight." 13 Chair, further enquiries about the existence of any 14 notes of that meeting and generally are in train. The 15 core participants have been provided with a copy of 16 Baroness Liddell's email and so are aware of its 17 contents. 18 Secondly, chair, I indicated in opening of 19 the part 2 hearings that I would give an update on the 20 de-ciphering process. You will recall at the 21 preliminary hearing on 9 May I said that in relation to 22 de-ciphering this was an ongoing issue and it is right 23 to record that further information has been received. 24 I said then that we believed that there are at least 25 two, if not more, alleged perpetrators who would</p> <p style="text-align: center;">Page 4</p>

<p>1 ultimately be de-ciphered but that I would address this                  2 at the part 2 hearings. Chair, the inquiry team have                  3 continued to take a proportionate approach to the                  4 de-ciphering issue throughout the investigation,                  5 including, in particular, the period of time since the                  6 part 1 hearings. The inquiry team has made a number of                  7 requests, including to the Catholic Council for IICSA,                  8 the Sisters of Nazareth, the Children's Society, the                  9 Royal Over-Seas League, the Prince's Trust, Action for                  10 Children and the Catholic Bishops' Conference in                  11 Australia, in order to try to identify whether various                  12 individuals against whom allegations of sexual and/or                  13 physical abuse have been made could be confirmed from                  14 their records as being deceased, in order that we could                  15 consider whether or not it was appropriate for a cipher                  16 to be removed.</p> <p>17 In respect of some of these individuals, given the                  18 lack of a full name or a given name, we have been                  19 informed that it has not been possible to identify any                  20 records in relation to some of the requests. For                  21 others, we have been informed that the organisation was                  22 not the competent authority and they did not have the                  23 information requested. The inquiry also sought                  24 assistance from the Australian Royal Commission into                  25 Institutional Responses to Child Sexual Abuse in respect</p> <p style="text-align: center;">Page 5</p>	<p>1 206. They are all with the F prefix. All of those                  2 ciphers have now been removed, so the core participants                  3 are aware of the names of those individuals.                  4 Chair, those are the only preliminary matters.                  5 THE CHAIR: Thank you very much, Ms Hill. I now turn to                  6 Ms Weereratne.                  7 Closing submissions by MS WEERERATNE                  8 MS WEERERATNE: Thank you very much, chair and panel. Good                  9 morning.                  10 I hope, chair and panel, that you have three                  11 documents from the CMT before you today which set out                  12 our detailed submissions for today, in which I will                  13 highlight some points for you now.                  14 I wanted to start by saying this: it is                  15 26 July 2017, and it is 73 years since Marcelle O'Brien                  16 was born in Worthing Hospital, West Sussex in England.                  17 It is her birthday today. Marcel was the first of                  18 the former child migrant witnesses to provide her                  19 testimony to this inquiry. The panel will remember her.                  20 She wore a red beret. She spoke quietly. But she spoke                  21 forcefully about her experiences. She told the panel                  22 that she was only 4 years old when she was deported to                  23 Fairbridge, Pinjarra in Australia, and the inquiry heard                  24 that her foster mother had tried to get her back.                  25 Letters had been written to the Royal Family to achieve</p> <p style="text-align: center;">Page 7</p>
<p>1 of whether they had details of dates of death in respect                  2 of 149 names, but they confirm that they did not hold                  3 such a list, nor could one be easily assembled, but they                  4 would assist where possible.</p> <p>5 Where we have been able to obtain clear information                  6 that an individual in question has died, we have                  7 carefully considered that information and, where                  8 appropriate, have removed the ciphers. So I can confirm                  9 that there are three individuals who were referred to in                  10 the part 1 evidence whose names can now be de-ciphered.                  11 They are, as far as CM-A5's evidence was concerned, F60,                  12 who is confirmed to be Sister Norbert from the                  13 Nazareth House in Middlesbrough. In the live evidence                  14 of Michael O'Donoghue on 3 March and the read evidence                  15 of CM-A13 on 7 March, reference was made to F43, who is                  16 Sister Mary Assumpta from the Nazareth House in Romsey.                  17 Finally, in the read evidence of CM-A2 on 28 February,                  18 F80 is confirmed to be Mr HRM Lord.</p> <p>19 Finally, chair, on this topic, you will recall the                  20 evidence that's been adduced in the part 2 hearings                  21 about the allegations at the Picton school. In relation                  22 to that group of issues, there were seven individuals                  23 who were originally ciphered in the material provided to                  24 the core participants. For the core participants'                  25 reference, they are CM-F140, 141, 142, 197, 198, 199 and</p> <p style="text-align: center;">Page 6</p>	<p>1 that, but Fairbridge had said that it would not be "in                  2 her best interests" for her to come back to the UK. So                  3 instead she lived on in Pinjarra, where she told us she                  4 was physically and verbally abused and molested by the                  5 school's deputy principal. She was told by her cottage                  6 mother, she said, that she was from the gutter, "You                  7 have got nobody, you have got no parents. They are all                  8 dead". However, this was not true and the CMT reunited                  9 Marcel with her family.                  10 Marcel was just one of the former child migrants who                  11 provided testimony to this inquiry, and these are                  12 experiences that are at the heart of this inquiry and                  13 this is why this inquiry has gathered and convened to                  14 hear all the evidence that it has over the last number                  15 of months and weeks.                  16 The CMT, as I have just outlined, has provided                  17 detailed written submissions, but it has had a lot to                  18 say about the child migration scheme over the last                  19 30 years and, in fact, they would say for the last                  20 30 years they have been saying much of what has been                  21 heard by this inquiry over the last months. They have                  22 provided detailed evidence of this. Two statements from                  23 Margaret Humphreys and detailed exhibits that accompany                  24 it, opening statements also made on behalf of the Child                  25 Migrants Trust and the statement of Mr Johnston from the</p> <p style="text-align: center;">Page 8</p>

<p>1 International Association are all relied upon, together 2 with the closing comments that I am about to make. 3 In the opening submission for the first part of 4 the hearings, the CMT set out that it had four points to 5 make: the UK Government and institutions knew in the 6 '40s and '50s of the poor standards of care in Australia 7 and, in some instances, about sexual assaults also. The 8 UK Government failed to respond to stop child migration 9 before it fizzled out in the 1970s. It has taken more 10 than 40 years since 1956 for this shameful history to be 11 publicly scrutinised in England and the fact of sexual 12 abuse and deplorable and abusive conditions that the 13 children endured we say is now well established. 14 Since then, the inquiry has heard detailed evidence 15 from experts. There has been a massive amount, I am 16 going to say, of documentation and disclosure that's 17 been available to all participants. We say that the 18 inquiry can draw its own conclusions from all the 19 evidence that has been heard because it is 20 contemporaneous evidence and because there is close 21 discussion within those documents of the very issues 22 that the inquiry is considering. 23 Of course, the CMT just reiterates that that 24 narrative that's been presented has not changed over the 25 many years that the CMT has been addressing these</p> <p style="text-align: center;">Page 9</p>	<p>1 Before I deal with some of these issues in a bit 2 more detail, I want to say that I am going to cover some 3 of the individual testimonies and the panel has an 4 overview of that evidence which we have provided. I am 5 going to touch upon some of that next, before returning 6 to the issues that were identified by counsel to the 7 inquiry as being relevant to the panel's determinations. 8 Turning then to the individual migrants' evidence, 9 I think it is important that we should, as I have 10 already said, put the former child migrants' evidence at 11 the heart of this inquiry, and there are good reasons 12 for this. Obviously, there are still people, members of 13 the public, members of the press, who are asking the 14 question why it is necessary to enquire into a scheme of 15 child migration that ended 40 years ago. We say to that 16 the child migration scheme may have ended, but child 17 migrants, their memories of dislocation, of loss of 18 identity, their legacies of trauma and harm persist, and 19 they have to remain at the heart of this inquiry for 20 that reason. The panel has heard those stories, and 21 I am going to summarise some of it now, but I am unable 22 to do justice, full justice, to what the panel has 23 heard. But I will do my best to recap some of 24 the stories of brutality that the panel has heard. 25 The importance of this, of course, is that, we say,</p> <p style="text-align: center;">Page 11</p>
<p>1 issues. 2 In the opening to part 2, the CMT also said that 3 there was evidence that shows that the migration schemes 4 were essentially unregulated and unregulatable and that 5 some representatives of migrating agencies were able to 6 traffic children into slave labour and sexual abuse, 7 into a regulatory black hole. We say that that evidence 8 has been heard by this inquiry, and I will try to return 9 to those points in due course. 10 I think I should mention, before I move on, that 11 there was, of course, a national apology in 2010, and 12 the government has said quite clearly that it stands by 13 that apology today and for the future. This has been 14 welcomed by former child migrants and by the CMT when it 15 was made, and when it has been heard during the course 16 of these hearings. 17 However, questions do remain for the CMT around the 18 government's responsibility. The CMT considers that it 19 has yet to accept full responsibility, by which it means 20 to acknowledge that the policy was not only wrong, but 21 it was fundamentally flawed in theory and in practice, 22 and that the government knew as much at the time. 23 It also raises and struggles to answer the question 24 still as to why it did take so long for the apology to 25 be made to the former child migrants.</p> <p style="text-align: center;">Page 10</p>	<p>1 the British Government were responsible for sending 2 these children to Australia. They funded the schemes at 3 taxpayers' expense, and it was the responsibility of 4 the British Government also to be satisfied that they 5 were being sent into conditions where they would be 6 properly looked after. We will come to that in due 7 course, but that was a key part of the scheme, and it is 8 why it is important that there should be a full inquiry 9 into it today. 10 As I have said, it is difficult to do justice to 11 this evidence. 19 former child migrants were supported 12 by the CMT to give evidence, whether in writing, by 13 videolink or in live evidence. Of course, if I recount 14 some of them, there are hundreds more that I will be 15 omitting, hundreds more, some of whom didn't come 16 because they weren't invited by the inquiry, but who the 17 inquiry is aware of, and hundreds who couldn't come 18 because they have passed away. 19 But with that in mind, and just to name a few of 20 those who did come and give evidence, and just to remind 21 the panel of this, we had Witness A4 who told the 22 inquiry that he kept bottled up his experiences for 23 nearly 30 years, and it was only until this inquiry has 24 come out that he has felt able to start talking about 25 his experiences. Witness A20 was born in Balham and he</p> <p style="text-align: center;">Page 12</p>

<p>1 said that what he's heard afterwards was that his mother                  2 did try to find him. She had no money. There was a lot                  3 of problems. She did find him on two occasions:                  4 "She took me back and then couldn't afford it again                  5 and put me back with another -- I think they called them                  6 foster mothers in those days. My concern about my                  7 mother is in the fact that she tried to look after me,                  8 you know, and it was terrible for the whole thing to                  9 finish up, because I knew my mother was trying later on                  10 in life to find me and, when I found out the truth, it                  11 hurt me a lot more, a lot more, because, having said                  12 that, she's not the person that I think the                  13 Catholic Church thought she was. She was a lovely                  14 person. A really lovely person".                  15 Child migrants have spoken of the pain of separation                  16 from their families, separation of siblings. A3 was one                  17 of ten siblings, nine of whom were migrated to Australia                  18 and one to Canada. She didn't see one of her sisters                  19 again until 1980.                  20 Migrants have spoken about the brutal physical                  21 abuse. A20 told the inquiry that he was sexually abused                  22 in this country by Father Baker and a nun before being                  23 sent to Clontarf, and later Tardun, where he was also                  24 raped.                  25 Witness A2, whose evidence was read, said that he</p> <p style="text-align: center;">Page 13</p>	<p>1 they were made to work. They were made to labour. You                  2 will have heard how former migrants at Clontarf and                  3 Castledare were made to take part in construction                  4 projects, chipping bricks, clearing trees, digging the                  5 grounds for swimming pools. And, of course, Ted Delaney                  6 was injured quite severely in the process. You have                  7 already heard that.                  8 These were not isolated incidents, we have heard,                  9 but we would say it goes without saying that, even if                  10 only one of these incidents had taken place, it is one                  11 child too many, and that no child should have to suffer                  12 such assault and torture.                  13 The inquiry heard about the lack of education and                  14 that education was a joke.                  15 A11 said, "What's the worst they could do to me?                  16 Not allowing me to read and write and to learn.                  17 I couldn't believe that. I didn't realise until I left                  18 what a handicap they gave me".                  19 Of course, consent was a real issue. We will come                  20 back to that, but you have heard that directly from the                  21 evidence that you heard. Peter Bagshaw said that his                  22 forms weren't signed by the Home Secretary and others                  23 have questioned whether their parents properly consented                  24 to them travelling to Australia.                  25 Reporting the abuse we have heard was extremely</p> <p style="text-align: center;">Page 15</p>
<p>1 was deported to Australia in 1958 where he was sexually                  2 abused in a boys' home, previously in Cornwall and then                  3 subsequently in Fairbridge.                  4 A19 describes in a Roman orgy involving                  5 a Mr Hoyland, a relation of the Cadbury family, who was                  6 later banned from that home by Sister Dangerfield, who                  7 walked into the room and saw what was happening. He was                  8 migrated to Australia after hearing about going to                  9 school on horses, getting ostrich eggs and shooting                  10 rabbits. The inquiry has heard children were fed                  11 propaganda of this kind on many, many occasions to                  12 persuade them to go to Australia.                  13 Witness A4 describes sexual abuse by                  14 Brother Lawrence. He was a small child. He was                  15 sexually abused by Christian Brothers. He described it                  16 as, "A feast of kids at an orphanage, a smorgasbord of                  17 children. They can pick anyone they want to".                  18 Edward Scott suffered sexual assaults in Molong and                  19 then in Pinjarra. He did eventually receive an apology                  20 for the abuse at Molong.                  21 Michael Hawes was sent to Dhurringile where he also                  22 recounted being sexually abused.                  23 Sexual abuse took place in the context of work. A14                  24 said it took place in the piggery. But he had no choice                  25 but to go there because that was his place of work. And</p> <p style="text-align: center;">Page 14</p>	<p>1 difficult. A14 said that nearly every day was a rape                  2 day. When he reported it to his cottage mother, she                  3 said he was lying and he got caned for that.                  4 They have also spoken about the struggle in                  5 obtaining records and going through stressful legal                  6 procedures. One former child migrant described his                  7 experience in a class action in Australia as feeling                  8 like he was the guilty one.                  9 But, of course, there was some joy as well, when the                  10 former child migrants told the panel about finding their                  11 families at last. Reunifications with the family have                  12 been very important and finding their mother,                  13 particularly after being told that their mother was                  14 dead, has been a significant and crucial point in all of                  15 their lives. Of course, they say they owe a great debt                  16 of gratitude to Margaret Humphreys who changed their                  17 lives in this way.                  18 The inquiry has also heard from Mr Johnston of                  19 the International Association, and he spoke about                  20 reparation and redress. I just want to say a few words                  21 about the evidence that has just been read out. I think                  22 it shows, we would say, the strength of feeling in                  23 former child migrants about the attitude and responses                  24 of the British Government to providing funding for                  25 reparations. It also shows the strength of feeling</p> <p style="text-align: center;">Page 16</p>

<p>1 about the delay in achieving those things.                  2 It is not that there wasn't a conversation and that                  3 things were not said, but interpretations and nuances                  4 are clearly matters for individuals, but we would say                  5 that they are clearly very strong feelings and the child                  6 migrants have a strong belief that the British                  7 Government was waiting for some of them to die.                  8 Margaret Humphreys gave evidence. I just want to                  9 highlight a few paragraphs of her evidence. She said                  10 that child migrants were in a particularly vulnerable                  11 position, reinforced by the loss of family and identity.                  12 They were sent to geographically isolated institutions                  13 across the world. This left them particularly                  14 vulnerable to physical and sexual assaults, given the                  15 lack of oversight and monitoring in these institutions.                  16 She said out of mind was out of sight.                  17 She talked about the ongoing consequences of                  18 childhood abuse and she explained to the inquiry that                  19 only a minority of former child migrants have approached                  20 CMT specifically to address sexual abuse or                  21 institutional assault. Rather, these issues have                  22 emerged within a broader social work service addressing                  23 childhood deprivation and various forms of abuse.                  24 She said it was impossible to compartmentalise the                  25 needs generated by sexual abuse from all those other</p> <p style="text-align: center;">Page 17</p>	<p>1 knowledge of sexual abuse on the part of the government                  2 and agencies. You have heard, and just now from the                  3 summary also that I have given, that many children were                  4 sexually abused and that other inquiries have made                  5 findings in relation to sexual abuse of child migrants,                  6 and we say that these are all matters that this inquiry                  7 can take cognisance of and use in its own conclusions.                  8 The inquiry has heard from former child migrants in                  9 person, and we know that the inquiry will also receive                  10 a table, a summary, of other examples of sexual abuse                  11 from the investigating team.                  12 While most of these accounts are not included in the                  13 contemporaneous evidence, the experts and Dr Humphreys                  14 have provided evidence of the attitude towards                  15 disclosure of sexual abuse in institutions, and poor                  16 systems of supervision would make it likely that there                  17 was under-reporting, if anything, of sexual abuse of                  18 child migrants in the historical documents.                  19 In relation to the actual evidence of sexual abuse,                  20 we say that there is a timeline of knowledge that starts                  21 in 1889. That starts with the manager of Barnardos, the                  22 receiving home in Canada, being jailed for the sexual                  23 abuse of girls there. The experts concluded, in                  24 relation to that, that it would seem to follow that, at                  25 least in the case of girls, Barnardo's would be alert to</p> <p style="text-align: center;">Page 19</p>
<p>1 inescapable consequences of migration and the physical                  2 and emotional trauma that they have suffered.                  3 She spoke of secondary abuse, of which former child                  4 migrants have suffered, and she detailed what that meant                  5 and the importance that it was -- the importance that                  6 the government and those responding should learn to                  7 respond so as not to further abuse those who have                  8 suffered. The key point, she said, in her evidence is                  9 the need to listen to the victims of sexual abuse and to                  10 learn from the secondary abuse that former child                  11 migrants have suffered for the last 30 years: listening,                  12 rather than resisting, providing truth and timely                  13 justice, taking urgent action, are all lessons, she                  14 said, for this country and for the future.                  15 I do now want to turn to the separate issues that                  16 the inquiry will be looking at and to say in summary                  17 what we say about these things. First of all, I should                  18 say that in formulating and responding, we haven't had                  19 a chance to read in detail the written submissions of                  20 all the other participants, and that's something that we                  21 may well do in written submissions following what I am                  22 going to say. But I hope that I manage to capture the                  23 essence of what I understood was going to be said.                  24 In relation to the knowledge of sexual abuse, this                  25 is what we say, that there is good evidence of actual</p> <p style="text-align: center;">Page 18</p>	<p>1 the need for close supervision and aftercare when                  2 attention shifted to migration in Australia. We would                  3 say surely that's a matter of commonsense. It is                  4 a matter of institutional knowledge passing down the                  5 ages. We might have a moment to return to that, but the                  6 basic point is, if it was known about in Canada, then it                  7 would be known about for all time, essentially, within                  8 that institution, and any institution that was aware of                  9 it at that time.                  10 The next part of the timeline is 1943. The experts                  11 have given evidence of knowledge within the                  12 United Kingdom High Commission and the Dominions Office                  13 in mid 1943 of cases of sexual abuse at Pinjarra and                  14 Northcote. Now, the government was certainly aware of                  15 the criminal prosecutions at Northcote Farm School and                  16 the United Kingdom High Commission knew about the                  17 incidents at Pinjarra through Mr Garnett. Now, we would                  18 say that the knowledge residing in the United Kingdom                  19 High Commission was knowledge within the British                  20 Government because the United Kingdom High Commission is                  21 the emanation of the British Government within                  22 Australia.                  23 The next point in the timeline is 1949, and we have                  24 heard a lot about Mr Dallas Paterson and his memorandum                  25 which recounts two general pieces of information about</p> <p style="text-align: center;">Page 20</p>

<p>1 girls being abused at Pinjarra.                  2 The next point in the line is Picton, 1958. We know                  3 that the government had knowledge there.                  4 The prosecutions of these incidents, we say,                  5 demonstrates sexual abuse was never an acceptable                  6 practice, and that the government knew that because of                  7 its response to the knowledge, for example, at Picton.                  8 There is a telegram from the Commonwealth Relations                  9 Office in relation to Picton which says:                  10 "If there is publicity, it may lead to enquiries                  11 whether we are satisfied that similar practices do not                  12 occur in boys' institutions of other societies."                  13 If it was happening in Picton, it was known that it                  14 might have been happening elsewhere, but as far as we                  15 know, there were no investigations elsewhere.                  16 So far as constructive knowledge is concerned, we                  17 say that if you have actual knowledge, it is reasonable                  18 to conclude that you should be, and ought to be, aware                  19 of the risk of sexual abuse elsewhere.                  20 We have set out our basic argument in relation to                  21 that in the document that I provided, and I am going to                  22 move on now because I know that time is short.                  23 I wanted to say, though, in relation to that, that                  24 where there have been, as Mark Davies said, allegations                  25 or knowledge of sexual abuse spread out over time,</p> <p style="text-align: center;">Page 21</p>	<p>1 about standards of inspection in 1875: the need for                  2 regular, independent monitoring; the need to speak to                  3 children personally; and that the reason for that is                  4 a protective reason, to protect children from harm.                  5 Doyle is said to have been cognisant of sexual                  6 vulnerabilities of children and child migrants.                  7 So child migration was started after the war at                  8 a time of changing standards, but we say that Curtis                  9 isn't a moment in a vacuum. It takes into account in                  10 its considerations all that went before it.                  11 Indeed, what we can see -- the documentation is                  12 replete with examples of how individual agencies                  13 acknowledged the standards were changing through the                  14 Curtis Report and afterwards, and how the individual                  15 agencies participated in and contributed to the                  16 Curtis Committee and its subsequent recommendation.                  17 I have set some of those things out, as I say, in                  18 the documentation. So far as, for example, the Catholic                  19 agencies are concerned, we have recommended that the                  20 evidence of Mary Gandy and Rosemary Keenan, for example,                  21 are to be preferred over Bishop Stock because they have                  22 a more extensive knowledge of the migration scheme, and                  23 the evidence that they have produced shows clearly their                  24 views of the standing of Curtis and all other documents                  25 around it and also the use of those documents by the</p> <p style="text-align: center;">Page 23</p>
<p>1 rather than in one focused period, again, we would say                  2 even one report of sexual abuse is one too many. It is                  3 a criminal offence. We would ask rhetorically how many                  4 reports are needed before it is appropriate to respond?                  5 Again, it is crucial to bear that in relation to Picton                  6 there was active suppression, we would say, of knowledge                  7 there, which shows that cultures and mores did not                  8 support even occasional reports of sexual abuse or show                  9 that that was acceptable.                  10 On the sufficiency of care, again, I have set out in                  11 detail what we say about that in the document. It might                  12 be said, and I think it is being said, that the                  13 standards of the day were not known, and we say that                  14 that is not correct. It was known. It was accepted by                  15 the core participants at the time. It was very                  16 important in the regulatory part of the government's                  17 responsibility, namely, through the standard of                  18 inspection. Importantly, we say, the standard of                  19 inspection is one that has been known about and                  20 available since, I think the experts said, Victorian                  21 times. Because it comes about not simply through the                  22 Curtis Report in 1956, but, again, we go back to Canada,                  23 to Doyle in 1875. I have put in our timetable -- our                  24 table of standards, it is the second box down, I won't                  25 take you to it now, but it sets out what Doyle says</p> <p style="text-align: center;">Page 22</p>	<p>1 Catholic Council for the Welfare of Children, the CCWC,                  2 in their minutes; the use of the reports such as the                  3 Women's Group -- not an official report, but taken very                  4 seriously by, for example, the CVOCE at the                  5 contemporaneous time.                  6 I am going to move on now, but I want to say, before                  7 I do, that Mark Davies in evidence did accept -- it is                  8 one of the points I wanted to make -- that there was                  9 a body of thinking that child migration was                  10 unacceptable, even in 1947, and that it shouldn't have                  11 started. That was the local authorities, social                  12 workers, even the Home Office was at pains often to                  13 write that it did not want to be seen to be encouraging                  14 child migration. The tension there was with the                  15 Commonwealth Relations Office that was concerned with                  16 promoting child migration. But Mark Davies said, to                  17 a large extent, the local authorities seemed to be                  18 reluctant to provide children to be sent overseas and                  19 I think they were probably expressing similar views to                  20 some of the Home Office officials in terms of                  21 the welfare of the child and the different standards of                  22 care which might be available.                  23 Chair and panel, I hope I can leave you to read the                  24 detail of where we say the standards out of Curtis and                  25 the other documentation translates into the minutes, and</p> <p style="text-align: center;">Page 24</p>

<p>1 I have set out some of those in the document. The                  2 breach of those standards is quite easily to be seen in                  3 Moss, which is critical of the homes, even though he                  4 didn't recommend stopping child migration; in Ross, who                  5 was highly critical and from which the much-wanted black                  6 list comes; and from Rouse.</p> <p>7 For our purposes, I want to have highlighted two                  8 particular strands of consent and selection which we say                  9 led to unlawfulness within the child migration schemes,                  10 and also the lack of reliable information which fed into                  11 the fact that it was not possible for British Government                  12 to operate its statutory duties under the Empire                  13 Settlements Act and the Children's Act 1948                  14 satisfactorily or properly so that the children could be                  15 protected.</p> <p>16 Again, on the matter of selection and consent,                  17 I have set that out in the note, but I wanted to                  18 highlight that it feeds into the issue of trafficking                  19 that we have highlighted, because, importantly, we have                  20 heard good evidence that Brother Conlon was taking                  21 steps, together with others, to recruit children                  22 directly and without the knowledge of the CCWC. There                  23 is evidence that Brother Conlon knew about sexual abuse                  24 at Christian Brothers homes in Western Australia but was                  25 nevertheless arranging for children to go very fast,</p> <p style="text-align: center;">Page 25</p>	<p>1 The experts said that that was a fundamental flaw in                  2 these schemes and extended to also the subsequent                  3 solution of the use of voluntary agreements in 1956,                  4 which are also set out in our submission, which relied                  5 upon the same unreliable information.</p> <p>6 So the schemes were unregulatable, they were                  7 unregulated, they were not operating, we say, lawfully,                  8 in fact, through that lack of regulation.</p> <p>9 I must now speed on to reparations and redress.                  10 Again, there is a lot of information that has been filed                  11 in relation to that. The enduring points that the CMT                  12 would wish to make relate to government delays that have                  13 resulted in the delay in proper funding. The CMT has                  14 highlighted that, without Nottinghamshire County                  15 Council, there is a very strong chance that the CMT                  16 might have gone under, essentially, and struggled to                  17 exist, and that, in the early days, there were a number                  18 of former child migrants whom they were unable to help                  19 and that an earlier understanding and recognition of                  20 the problems would have alleviated that. The CMT has                  21 struggled to understand why that delay has taken place                  22 because, as far as it's concerned, the information was                  23 made available at the outset to the government. I have                  24 set out there that the Department of Health disclosure                  25 shows that there was knowledge of sexual abuse, physical</p> <p style="text-align: center;">Page 27</p>
<p>1 speedy migration, under the radar, without proper                  2 consents, in situations where we have heard that the                  3 consent forms were signed by the same person in relation                  4 to consent and the institution and the sending                  5 institution. We also heard that Canon Flint has been                  6 alleged to be a perpetrator. We say that the inquiry                  7 can put all these matters together and come up with                  8 a very serious conclusion, there are some very serious                  9 facts here which need some attention, and we would                  10 invite the inquiry to pay some attention.</p> <p>11 So far as the regulation argument is concerned, in                  12 summary, what we say is, whether by section 17 and the                  13 Home Secretary's consent or by section 13 and                  14 regulations that were never made or by the approvals of                  15 institutions under the Empire Settlements Act, the                  16 British Government was never in possession of adequate                  17 information to be able to fulfil its duties under those                  18 provisions.</p> <p>19 The standards that the Home Office were to apply,                  20 and we know from the documents that the Home Office was                  21 looking for evidence of standards that were at least                  22 comparable to that which was increasingly being                  23 introduced in the UK, even if the system in the UK was                  24 not perfect. Of course we know that that means that                  25 that comes directly out of paragraph 515 of Curtis.</p> <p style="text-align: center;">Page 26</p>	<p>1 abuse, emotional harm. There was knowledge of                  2 the thousands of applicants who had come forward in 1989                  3 for the help of the CMT.</p> <p>4 These matters of information were within the                  5 knowledge of the government from the very outset, and so                  6 the CMT has had concerns about how this has been used                  7 and why it was that ministers, such as John Major as the                  8 Prime Minister, were not told or were not given the                  9 adequate information. Why indeed, for example, in 1998,                  10 the submission to the Health Select Committee made by                  11 the DOH omitted reference to either the Curtis Report or                  12 the Children Act 1949 or indeed the Ross confidential                  13 black list. In 1998, that should have been known about,                  14 and that should have been made clear to that                  15 investigation.</p> <p>16 The lines of briefing that were offered up to                  17 ministers are also of concern and demonstrate that HMG,                  18 for example, it says in one minute, does not consider                  19 itself responsible for what went wrong, it was                  20 a different social climate. Yet we know that is                  21 completely wrong, and that the child migration took                  22 place under social climate is demonstrably fallacious,                  23 and it is not with hindsight that we can say that child                  24 migration was wrong. Indeed, Mark Davies has agreed in                  25 oral evidence that it was in the contemporaneous reports</p> <p style="text-align: center;">Page 28</p>

<p>1 that show that inadequate care and education and                  2 concerns about conditions of the children can be found.                  3 For the future, Margaret Humphreys has addressed in                  4 her supplementary statement what she means by "post                  5 apology strategy". I have set it out in the closing.                  6 She has called for -- she mentioned the requirement of                  7 a full judicial inquiry. That is because the child                  8 migrants have always wanted and sought an inquiry into                  9 the totality of migration, the totality of its failings                  10 and its consequences has required an investigation.                  11 This is a complex business that was not really just                  12 confined to the experiences of sexual abuse. Yet we                  13 have seen the value of this inquiry, as late as it has                  14 come, in the access that it has given to child migrants                  15 to previously closed archives, for example, from                  16 Fairbridge, and that has been of great value, even at                  17 this stage, and certainly an earlier stage it could have                  18 been achieved is what we submit.                  19 So the post-apology strategy still refers to the                  20 full judicial inquiry and the full financial redress,                  21 a sustained and integrated professional and financial                  22 support for surviving child migrants, recognising the                  23 need for independence of service and why it is that the                  24 child migrants say that independent services are                  25 fundamental in this context, and that there should be</p> <p style="text-align: center;">Page 29</p>	<p>1 the increased funding for professional core services                  2 alongside the Family Restoration Fund has made                  3 a dramatic and positive impact on the lives of former                  4 child migrants. There is a growing awareness, quite                  5 clearly, of the past and its impact on the future, and                  6 also the International Association of Child Migrants has                  7 said, "This is our lifeline to family and to country".                  8 I think I will just finish by quoting again from                  9 another child migrant who said:                  10 "Learning from the past is surely the key to                  11 positive change. As a former child migrant said to                  12 Margaret Humphreys recently, I am remembering what I can                  13 never forget so that you, my country, will never forget                  14 too."                  15 Thank you, chair, and I apologise if I have taken                  16 too long.                  17 THE CHAIR: Not at all, Ms Weeraratne, you are bang on time.                  18 Closing submissions by MR HILL                  19 MR HILL: May I begin by saying, again, thank you for                  20 allowing me to participate in this inquiry. On my own                  21 behalf, and on behalf of other child migrants, and                  22 particularly the kids who were at Fairbridge Farm School                  23 at Molong, I wanted to say how pleased we are at the                  24 valuable additional information about child migration to                  25 Australia and the abuse suffered by many of those</p> <p style="text-align: center;">Page 31</p>
<p>1 ring-fenced, ongoing funding of the Family Restoration                  2 Fund and the CMT's costs of supporting former child                  3 migrants.                  4 She also refers to "Enduring recognition and                  5 learning for the future". "Practical, cultural                  6 initiatives" she has referred to, such as national                  7 memorials and a remembrance and living testimony                  8 projects, training for social workers and thinking                  9 behind how these issues can feed into future policy.                  10 So by way of conclusion, of course, I can't finish                  11 without referring to Gordon Brown in his evidence. He                  12 said that this scheme represented "huge violations of                  13 human rights": a loss of identity, loss of family, loss                  14 of sense of belonging. "A government enforced form of                  15 human trafficking", which is what he said the apology in                  16 2010 was for. He said there was a failure in the                  17 government's duty of care for sending people without                  18 knowing and following and monitoring what had happened                  19 to them. In fact, it is a sad fact, we would submit,                  20 that what he has said is not overstatement, it is not                  21 hyperbole and it is borne out by the facts, we say, that                  22 are before this inquiry, and this fact the inquiry can                  23 pay heed to and draw conclusions of its own from.                  24 We also want to acknowledge that CMT acknowledges                  25 and appreciates the work of the Department of Health,</p> <p style="text-align: center;">Page 30</p>	<p>1 children that has emerged during this inquiry.                  2 Ten years ago, I wrote a book called "The Forgotten                  3 Children", which was based on some Fairbridge files,                  4 a limited number of Fairbridge files, a limited number                  5 of UK Government files, and the testimonies and                  6 information from about 100 former Fairbridge kids.                  7 The inquiry has now obtained vast additional                  8 evidence and information that corroborates all of                  9 the main claims I made in the book, but more importantly                  10 gives credence to the assertions of the kids about the                  11 abuse they suffered.                  12 Today, in my closing statement, I wanted to do two                  13 things. I wanted to highlight what for me has been the                  14 most important evidence to come forward and, secondly,                  15 to give the panel an indication of what I and other                  16 Fairbridge child migrants hope will come out of this                  17 inquiry.                  18 First of all, we think there is overwhelming                  19 evidence that the children at Fairbridge Farm School,                  20 Molong, and indeed most of the other child migrant                  21 centres, were not adequately safeguarded or protected.                  22 We have learned that many bad things happened to the                  23 children that should not have happened, including                  24 widespread physical, emotional and sexual abuse.                  25 We have heard some shocking evidence. I don't mind</p> <p style="text-align: center;">Page 32</p>



<p>1 admitting this story is a very emotionally 2 confronting -- indeed, it is the most difficult thing 3 I have ever done. 4 In my witness statement that we dealt with in part 1 5 of the hearings in February and March, I gave the 6 inquiry the basis of my calculations, that as many as 7 60 per cent of the children who were at Fairbridge Farm 8 School at Molong were sexually abused. Having heard the 9 evidence from other child migrants, I think many of us 10 would now accept that my calculation may have been at 11 the lower end of the scale. We know the long-term 12 consequences of sexually abused children can be 13 devastating for its victims and we know that many of 14 them never recover. But I think this inquiry now has 15 a better appreciation that the suffering of sexually 16 abused child migrants was compounded by the children 17 being removed from their parents, culturally and 18 geographically isolated, vulnerable, stripped of their 19 identity and their sense of belonging. 20 Indeed, if you wanted to minimise the safeguard and 21 maximise the risk to the children, you could not have 22 done better than design these child migrant schemes. 23 Taking kids, typically 8 to 9 years of age, some as 24 young as 4, from the protection of their parents, 25 shipping them to the far side of the world to spend an</p> <p style="text-align: center;">Page 33</p>	<p>1 Kingsley Fairbridge in 1912 for the entire life of 2 Fairbridge, from waking up to go to work before school 3 and after school and finally the night-time curfew bell. 4 Fairbridge kids were appallingly undereducated, as 5 most child migrants were. We all left school at the 6 minimum age of 15 to work for two years on the farm. 7 The boys qualified for nothing more than cheap farm 8 labourers and the girls as domestic servants. 9 As I pointed out in evidence, some conditions at 10 Fairbridge and other child migrant centres -- if you are 11 looking at the established standards of the day, some of 12 the conditions at the time were harsher than prevailed 13 in adult prisons, where inmates at least entitled to 14 family visits, were not forced to eat contaminated food 15 or forced to endure public thrashings. 16 We think this inquiry has also been provided with 17 overwhelming evidence of the nature of British 18 institutions to ensure the safety and welfare of 19 the children they committed to child migration. The 20 British Government, which for over half a century 21 officially endorsed child migration and became 22 Fairbridge's most regular and reliable source of 23 funding, took little care and little interest in what 24 happened to the children they dispatched to Australia. 25 John Major's assertion that, once we children left, we</p> <p style="text-align: center;">Page 35</p>
<p>1 entire childhood in a totally loveless environment, 2 exposed to unsuitable, unqualified, sadistic and poorly 3 selected staff, where there was no regular outside 4 independent inspections or scrutiny and no-one in 5 authority the kids could turn to for help. 6 The inquiry now has ample evidence that the 7 Fairbridge Farm School at Molong, and many others around 8 Australia, operated below the standards of acceptable 9 childcare at the time. This was particularly so after 10 the benchmarks made by the Curtis Report in 1946 and the 11 Children Act of 1948. 12 The first Fairbridge Farm School was built in 13 Pinjarra in Western Australia in 1912, and it never 14 progressed or changed from the rigid Edwardian standards 15 that were part of the design of the scheme at the time. 16 It has to be remembered that the Fairbridge Farm School 17 I went to in Molong in 1959 was exactly the same as the 18 school that had been built in Pinjarra in 1912 and to 19 the standards of Kingsley Fairbridge. 20 The same spartan cottages, beds without pillows, 21 dormitories with permanently opened windows and no floor 22 coverings, no lounge, no lounge furniture, the same 23 basic rations eaten not from china or porcelain, but 24 from metal plates and bowls. We lived by a village 25 bell, by the same daily orders that had been set down by</p> <p style="text-align: center;">Page 34</p>	<p>1 became the responsibility of a foreign government and 2 not the responsibility of the British Government is 3 disturbing. We were still British children. We were 4 still British citizens deserving the protection of 5 the British Government. 6 To become Australian, we had to make application for 7 citizenship. I didn't do it for more than 20 years. 8 Many child migrants never became Australian citizens. 9 They stayed British but without the protection of most 10 British citizens. 11 The British Government is guilty of more than 12 failing to ensure the welfare of child migrants. We now 13 have comprehensive evidence that on a number of 14 occasions, when they were in a position to help the 15 children, they betrayed them. 16 1956. We are well aware and we have all the 17 information now, much more than we have had previously, 18 the British Government sent the fact-finding mission to 19 Australia. They subsequently drew up a black list and 20 put ten, the major ten, child migrant centres, including 21 both Fairbridge Farm Schools, on what they described as 22 a black list. They went as far as suspending further 23 child migration to Australia, kids who were destined for 24 both Fairbridge, Pinjarra and Fairbridge, Molong. And 25 then, as a result of what is well-documented civil</p> <p style="text-align: center;">Page 36</p>

<p>1 servant files, the government, given the choice of                  2 protecting the children or appeasing the political                  3 influential Fairbridge, abandoned and betrayed the                  4 children.                  5 If there were any doubts about the failures of                  6 the child migrant schemes, it was dispelled in 1956,                  7 when the ten major child migrant centres were condemned                  8 unfit for children. It was then that the British                  9 Government should have put a stop to child migration and                  10 the funding of it and organised the rescue of                  11 the hundreds of children who were already in the centres                  12 it had condemned.                  13 The UK Fairbridge Society also failed to ensure the                  14 protection of the children it sent to Australia. When                  15 it was made aware on regular occasions of the failures                  16 of the scheme, it either ignored or resisted the                  17 proposals for change, starting with, in 1944, when                  18 WJ Garnett, the official secretary to the British High                  19 Commissioner in Australia, prepared a 40-page report                  20 about the failings of Fairbridge, and in it he said                  21 there was, and I quote, "conclusive proof that                  22 Fairbridge had failed to convert Fairbridge kids into                  23 successful farmers".                  24 Fairbridge ignored all of the proposals for                  25 improving the opportunities and the education of</p> <p style="text-align: center;">Page 37</p>	<p>1 You can't take away the suffering of the victims. But                  2 you can offer some comfort or redress.                  3 I think the inquiry should seriously consider                  4 recommending redress and reparation. The best outcome                  5 for child migrants who were abused is that the                  6 institutions responsible accept their responsibility for                  7 that abuse.                  8 I notice a lot of the institutions are saying,                  9 "Well, we didn't know". I didn't know either. I didn't                  10 know about the sexual abuse until I interviewed all the                  11 Fairbridge kids and took their stories into account when                  12 writing that book. But now we do know. So it's no good                  13 saying, "We didn't know, so we're not responsible". We                  14 now know it did happen.                  15 Child migrants should not be forced to litigate to                  16 obtain this redress. Rather, it should be given                  17 humanely and in a sensitive way. In my view, a redress                  18 scheme should be provided for former Fairbridge child                  19 migrants by both the British Government and the                  20 UK Fairbridge Society, now of course hiding under the                  21 cover of Prince's Trust, who were both guilty for                  22 failing to provide adequate care and protection for                  23 Fairbridge child migrants.                  24 There are three key elements to a proper redress                  25 scheme. Each element should be given by any institution</p> <p style="text-align: center;">Page 39</p>
<p>1 children recommended by Garnett and continued to operate                  2 in the 1912 model from Pinjarra until it closed as                  3 a child migrant centre in 1974.                  4 In 1948, the British Federation of Social Workers                  5 went to the press here in the UK and claimed -- and 16                  6 child welfare organisations were members of the peak                  7 body the British Federation of Social Workers, and they                  8 reported disturbing accounts where the welfare of                  9 the children in the child migrant centres was being                  10 compromised. Fairbridge's response was to describe the                  11 claims of the social workers as effrontery rather than                  12 taking seriously their concerns.                  13 We now know that, when confronted with allegations                  14 of abuse, Fairbridge, for years, up to and including                  15 Nigel Haynes' appearance here last week, have continued                  16 to lie and deny the responsibility for what they did.                  17 I cannot tell you the depth of anger I felt, and other                  18 child migrants felt, about the contemptuous appearance                  19 of Nigel Haynes, and yet -- and yet -- it was a very                  20 valuable episode because it gave this inquiry                  21 a first-hand look at how Fairbridge operated and the                  22 culture that possessed it.                  23 So what can be done now? What can this inquiry do?                  24 Well, the reality is, you can't undo the terrible damage                  25 to those children. You can't right the great wrong.</p> <p style="text-align: center;">Page 38</p>	<p>1 seeking to redress the damages caused by the abuse of                  2 child migrants. The key elements are that the                  3 institution seeking to give redress must give a full                  4 apology in which the institution's responsibility for                  5 the abuse is frankly accepted. Secondly, the                  6 institution should make an offer to provide support and                  7 counselling should the child migrant wish. Thirdly, the                  8 institution should make monetary payments to the child                  9 migrants.                  10 The inquiry was told last week that if you are going                  11 to do anything, you have got to do it in a hurry because                  12 of the ageing nature of the Fairbridge and the other                  13 child migrants. They are dying, as you would expect.                  14 What I did since last week is, I contacted the president                  15 of the old Fairbridgeans Association, Derek Moriarty,                  16 and asked him for the figures on Fairbridge kids who                  17 have died in recent times, and he has told me that when                  18 the book I wrote, "The Forgotten Children", was                  19 published in May 2007, there were 238 surviving                  20 Fairbridge kids who were on our newsletter mailing list.                  21 238. In just on a decade, 59, or a quarter, have died,                  22 leaving only 179 now. It goes without saying that, with                  23 the passage of time, the rate of deaths is likely to                  24 accelerate. So I must urge the panel, this is not                  25 something that can wait even until next year. As</p> <p style="text-align: center;">Page 40</p>

<p>1 Margaret Humphreys pointed out, last week she got a call 2 from a former Fairbridge migrant who died while these 3 hearings were being conducted. 4 Finally, chair and panel, if I may, I would like to 5 thank those brave Fairbridge kids, who suffered terrible 6 abuse and a life of profound social disadvantage, who 7 have now come forward and told their stories and 8 provided this inquiry with important evidence. 9 I have got to thank my wife, Stergitsa, for being 10 here, and a very special mention for my old Fairbridge 11 mate, Ian Bayliff, who has provided invaluable help to 12 me over many years, including preparing information for 13 my witness statement to this inquiry. "Smiley" wanted 14 to be here, but he is ill and couldn't leave Australia. 15 I know of no other country that abandoned tens of 16 thousands of its defenceless children simply because 17 they were poor, and certainly, through no fault of their 18 own, were deported as young as 4 and without parents to 19 remote locations overseas where they'd experience 20 hardship and most terrible abuse and, more often than 21 not, a lifetime of profound social disadvantage. Thank 22 you. 23 THE CHAIR: Thank you very much, Mr Hill. 24 We will now take a break and return at 11.50 am. 25 Thank you.</p> <p style="text-align: center;">Page 41</p>	<p>1 Before I make my submissions, it may be appropriate 2 to consider whether, in general terms, and thus far, 3 what has been achieved, if anything, by the holding of 4 this particular module of the inquiry, and we -- and 5 I make reference to "we" in the submissions, and it is 6 because Mr Cosgrove and I consider there have been three 7 practical achievements. There may of course be more. 8 Firstly, and perhaps most importantly, the inquiry, 9 through the hearing of evidence from child migrants, 10 from former child migrants, has given a voice to the 11 victims of sexual abuse who for so long have suffered in 12 silence. 13 Secondly, we hope that by the giving of evidence 14 and, indeed, in hearing the evidence of others, the 15 inquiry has proved in some small measure, we hope, to 16 the former child migrants to have been a cathartic 17 process. 18 Thirdly, the inquiry has thrown a light over 19 a shameful period of this country's history, which was 20 largely unknown and unheard of, except by those directly 21 involved and those helping former child migrants. 22 As you may recall, chair, as I said in our opening 23 submissions, this was an issue that I had no prior 24 knowledge of. I was ignorant of. Though distressing to 25 hear about this particular aspect of our history, it has</p> <p style="text-align: center;">Page 43</p>
<p>1 (11.35 am) 2 (A short break) 3 (11.53 am) 4 THE CHAIR: Mr Khan? 5 Closing submissions by MR KHAN 6 MR KHAN: Good morning, chair. Good morning, panel members. 7 As you know, chair, I represent Oliver Cosgrove and 8 make closing submissions on his behalf and with his 9 direct involvement. The reason I say that is because, 10 as Ms Weeraratne has already said, the former child 11 migrants are at the heart of this inquiry, and it is 12 their voices that ought to be heard, not just their 13 lawyers'. 14 I start with a quote in my submissions from the 1919 15 Royal Commission on State Children and Charities 16 Department, to remind us, if we need reminding, of what 17 we are doing here: 18 "We are seeking to protect children, all children. 19 The quote is as follows: 20 "Our great need appears to be a realisation of 21 the fact that the child is the basis of our national 22 life and, because of that, to determine that no cause or 23 factor calculated to destroy that basis shall remain to 24 rob the child of his undoubted birth right." 25 That was 1919.</p> <p style="text-align: center;">Page 42</p>	<p>1 been a revelation. It has also, I should add, been 2 a privilege to represent Mr Cosgrove, whose conduct 3 throughout these proceedings belies the painful trauma 4 he has endured for many, many years. 5 However, the corollary to these achievements, if 6 I can call them that, is that the inquiry has provided 7 former child migrants with a level of expectation that 8 is daunting and must be realised. 9 If the inquiry fails to meet these expectations, it 10 will, in our submission, have caused even more damage to 11 those who have suffered already. 12 On to our submissions now. They are split, chair, 13 into two parts. The first part deals with the evidence 14 that the inquiry has heard and the findings we invite 15 you to draw from that evidence. The second part is the 16 recommendations which we invite you to make. Obviously, 17 given the limited time that we have, we can only make 18 the submissions in general terms, and with a broad 19 brush. 20 With that in mind, we start with the stated matters 21 which the inquiry has to consider. Firstly, whether 22 government departments, public authorities, private 23 and/or charitable institutions based in England and 24 Wales took sufficient care to protect children involved 25 in child migration programmes from sexual abuse: the</p> <p style="text-align: center;">Page 44</p>

<p>1 sufficiency of care issue.</p> <p>2 To the extent which government departments, public</p> <p>3 authorities, private and/or charitable institutions</p> <p>4 based in England and Wales were aware of allegations or</p> <p>5 evidence of sexual abuse concerning children involved in</p> <p>6 child migration programmes: the actual institutional</p> <p>7 knowledge issue.</p> <p>8 Third -- and I say this, I'm aware, chair, that you</p> <p>9 know about this, and forgive me I'm repeating it simply</p> <p>10 because it assists in the later submissions -- the</p> <p>11 extent to which government departments, public</p> <p>12 authorities, private and/or public charitable</p> <p>13 institutions based in England and Wales should have been</p> <p>14 aware of the allegations or evidence of sexual abuse</p> <p>15 concerning children involved in child migration</p> <p>16 programmes: the constructive institutional knowledge</p> <p>17 issue.</p> <p>18 Finally, the response to the contemporaneous</p> <p>19 allegations issue, namely, whether, if government</p> <p>20 departments, public authorities, private and/or</p> <p>21 charitable institutions based in England and Wales were</p> <p>22 contemporaneously aware of allegations or evidence of</p> <p>23 sexual abuse concerning children involved in child</p> <p>24 migration programmes, they took appropriate steps in</p> <p>25 response.</p> <p style="text-align: center;">Page 45</p>	<p>1 standards were at the time that that legislation was</p> <p>2 brought out.</p> <p>3 We therefore have, by way of example only, the Act</p> <p>4 for the prevention of cruelty to and better protection</p> <p>5 of children, which was passed in 1889. This duty to</p> <p>6 protect children was not just simply recognised at</p> <p>7 state, at country level, in 1924, the League of Nations</p> <p>8 adopted the Geneva Declaration, an historic document</p> <p>9 that recognised and affirmed for the first time the</p> <p>10 existence of rights specific to children and the</p> <p>11 responsibility of adults towards them. 1924,</p> <p>12 I emphasise.</p> <p>13 So did the obligation to protect children, whether</p> <p>14 through statute or through the mores of society, the</p> <p>15 norms of society, extend to their protection from sexual</p> <p>16 abuse? I expect we will hear a great deal about it in</p> <p>17 terms of standards from those who sit behind me. We</p> <p>18 submit the answer is found in the words of the question</p> <p>19 itself. We say it must be wholly self-evident that any</p> <p>20 reference to "abuse", whether social or otherwise, must</p> <p>21 necessarily involve the infliction of harm and therefore</p> <p>22 be wrong. As we said in our opening submission, and we</p> <p>23 opined then that we did not want to hear from others,</p> <p>24 the institutions in particular, that sexual abuse was</p> <p>25 ever permissible or acceptable.</p> <p style="text-align: center;">Page 47</p>
<p>1 We concentrate on those issues, and we invite you to</p> <p>2 draw the following conclusions in relation to each of</p> <p>3 the matters under consideration.</p> <p>4 Dealing with the first, the sufficiency of care</p> <p>5 issue, to answer whether sufficient care was taken, you</p> <p>6 may wish to consider -- it is simply an invitation to</p> <p>7 you -- three possible matters: whether such a duty of</p> <p>8 care existed; what that duty of care was; and what was</p> <p>9 understood as being sufficient.</p> <p>10 We submit that there can be little doubt but that it</p> <p>11 has always been accepted, from the beginning of time,</p> <p>12 that the role of adult society, either individually or</p> <p>13 as a whole, there existed an obligation to protect our</p> <p>14 children. There can be little argument about that.</p> <p>15 In their 17th addendum report, Professors</p> <p>16 Constantine and Lynch, whom we will call "the experts"</p> <p>17 through the course of our submissions, set out the</p> <p>18 various legislative attempts at protecting children from</p> <p>19 abuse. The introduction of such legislation reflects</p> <p>20 the fact, we say, that we, as a society, and the state</p> <p>21 in particular, had taken a responsibility to protect</p> <p>22 children. Digressing slightly, we submit that the law</p> <p>23 and statute represents the state at which society is and</p> <p>24 it reflects the norms of society, the mores of society,</p> <p>25 and we can look at that legislation to consider what the</p> <p style="text-align: center;">Page 46</p>	<p>1 It can never have been possible to consider that</p> <p>2 sexual abuse was permissible or acceptable, not now, not</p> <p>3 then. But this was not simply an issue of the existing</p> <p>4 social norms of the time. It had legislative force.</p> <p>5 I am talking about sexual abuse here.</p> <p>6 For example, in 1932, the Children and Young Persons</p> <p>7 Act was passed with the intent to provide children with</p> <p>8 better protection from sexual offences. How, then, do</p> <p>9 we measure the sufficiency of that care? Should it be</p> <p>10 a subjective test and based upon what each institution</p> <p>11 considered to be the case or should it be viewed</p> <p>12 objectively in terms of what was expected? We invite</p> <p>13 you to consider the test that you may wish to adopt.</p> <p>14 We strongly advocate the latter objective approach</p> <p>15 because, unfortunately, to leave it in the hands of each</p> <p>16 institution, particularly those in which abuse has taken</p> <p>17 place, is to invite an abdication of responsibility and</p> <p>18 a distortion of reality.</p> <p>19 We saw this approach most vividly in the evidence of</p> <p>20 Bishop Marcus Stock, whose statement at paragraph 22</p> <p>21 states:</p> <p>22 "There is nothing in the historical analysis to</p> <p>23 suggest that when agreeing to become involved in the</p> <p>24 child migration programmes, or during their operation,</p> <p>25 Catholic institutions in England and Wales considered or</p> <p style="text-align: center;">Page 48</p>

<p>1 discussed the risk of child sexual abuse. This may be                  2 due to the fact that, within society generally, the risk                  3 of child sexual abuse simply wasn't sufficiently                  4 comprehended, or its prevalence understood, to be                  5 considered for the danger it was at the time. Clearly,                  6 the lack of appreciation of that risk is something we                  7 know now had such terrible consequences in the lives of                  8 children then and since."                  9 We find that statement to be a wholly inaccurate                  10 assessment of the risk of sexual abuse and we submit                  11 that the sentiment expressed by Bishop Stock should be                  12 deplored and dismissed.                  13 If Bishop Stock's view is representative of                  14 the attitude of the institutions who are represented                  15 here, a subjective assessment of whether sufficient care                  16 was taken will be based upon what they knew or said they                  17 knew rather than what was known or should have been                  18 known. Professors Constantine and Lynch in their                  19 17th addendum report referred to the findings of a major                  20 research project whose report was published in 1957. It                  21 involved the study of sexual crimes. Victims,                  22 offenders, trials, punishments and the law. It                  23 contained a shocking statistic: of the 1,994 victims of                  24 sexual offences reported to the police, 82 per cent were                  25 children under 16. 82 per cent under 16. 25 per cent,</p> <p style="text-align: center;">Page 49</p>	<p>1 advisedly. We submit that the only reason why a child                  2 should have been emigrated was if it was in the child's                  3 best interests: the paramount criterion.                  4 There may have been a multitude of factors to be                  5 taken into account, but ultimately, if they did not meet                  6 that one requirement, the child should not have been                  7 involved in the migration programme. It should have had                  8 nothing to do with whether the child was born out of                  9 wedlock or whether the parents could afford to keep                  10 them. We have heard evidence of the basis upon which                  11 children were migrated.                  12 What you have heard is that the selection, we                  13 submit, of children for emigration was predicated not on                  14 the child's needs, but on the needs of the institutions                  15 and the government of the day and not of the child.                  16 That is what happened. Rather than ensuring the child's                  17 needs were paramount, this inquiry has heard that the                  18 UK Government was involved in child migration because it                  19 wanted to settle good white stock in the Dominions.                  20 What the UK Government did, going completely against                  21 its own guidance by Curtis, was sacrifice the lives and                  22 futures of thousands of children for the purpose of                  23 a deliberately racist scheme.                  24 Insofar as the Catholic Church is concerned, it                  25 treated Britain's children as simple commodities. Child</p> <p style="text-align: center;">Page 51</p>
<p>1 a quarter, under the age of 8.                  2 The report, say the professors, was intended to draw                  3 public -- public -- attention to the "problem of sexual                  4 delinquency" and was substantially reviewed in                  5 a national newspaper, The Observer, if I recall. The                  6 professors conclude, and we agree, it seems that these                  7 uncontentious -- and I pause, it will be interesting to                  8 read what the others have put in their submissions and                  9 what we hear this afternoon, but it seems at least                  10 uncontentious to suggest that those persons responsible                  11 for caring for children and/or their migration overseas                  12 should have been alert to the risk of sexual abuse and                  13 should have taken, as far as possible, reasonable -- and                  14 we would add in parentheses objectively reasonable --                  15 precautions to protect those for whom they had                  16 a responsibility.                  17 As we are saying, we respectfully agree.                  18 We submit that, when assessing the sufficiency of                  19 care issue, you may wish to consider the following                  20 subheadings: matters which came out in evidence. So the                  21 selection process. We submit that the evidence                  22 presented to this inquiry shows that insufficient care                  23 was taken to ensure that those selected to participate                  24 in the child migration programme did so for the right                  25 reason, and we use the singular rather than the plural</p> <p style="text-align: center;">Page 50</p>	<p>1 migration was a scheme which not only favoured religious                  2 proselytising but reaped financial rewards that accrued                  3 from building subsidies, outfitting allowances and                  4 weekly maintenance allowances. More brutally, as we                  5 have heard, the use of child labour met the exigencies                  6 of the institutions. We therefore invite you, chair, to                  7 conclude that Her Majesty's Government and the                  8 institutions that were involved in child migration                  9 failed in their duty of care in the selection process.                  10 Secondly, the issue of consent. We submit that the                  11 obtaining of consent to emigrate a child was and remains                  12 a fundamental requirement to ensure the legality of                  13 the process. Lack of consent or lack of informed                  14 consent, perhaps more importantly, we suggest from the                  15 viewpoint of a child migrant is tantamount to kidnap.                  16 It is nothing short of that.                  17 This inquiry has heard evidence that, whilst                  18 institutions were aware, were fully aware, that the                  19 consent of parents and/or guardians was required, they                  20 acted with almost universal disregard for this process.                  21 We have heard, for example, that some parents were                  22 deliberately led to believe that their emigrated child                  23 had died or been adopted. We therefore invite you,                  24 chair, to conclude that the evidence demonstrates that                  25 there was a failure to obtain proper informed consent.</p> <p style="text-align: center;">Page 52</p>

<p>1 The inspection of institutions. This inquiry has                  2 heard evidence of what should have been the proper                  3 approach to sending a child abroad, namely, that                  4 approval should have been given to the institutions                  5 which were to receive children. As we have heard, the                  6 role of the Commonwealth Relations Office, the CRO, on                  7 behalf of Her Majesty's Government, was to approve or                  8 not the institutions overseas to which child migrants                  9 were sent and to approve or not applications for funding                  10 from organisations involved in child migration.                  11 We submit that the evidence that this inquiry has                  12 heard shows that, despite knowing that it could do so,                  13 and should have done so, the UK Government failed in                  14 enforcing its powers both in relation to the approval of                  15 institutions to which child migrants were sent and in                  16 the funding of organisations involved in the scheme.                  17 We submit, and we invite you to conclude, that Her                  18 Majesty's Government had at its disposal a most powerful                  19 mechanism for ensuring that it protected child migrants                  20 and that it failed miserably to use. It could have and                  21 should have exercised its vetos on approval and funding,                  22 and by not doing so, as part of this shameful history,                  23 we submit that the UK Government was responsible, with                  24 the institutions, but it takes responsibility, for                  25 causing the avoidable suffering of many thousands of</p> <p style="text-align: center;">Page 53</p>	<p>1 the Dominions. Reports received which dealt with                  2 matters other than the welfare of the child. We have                  3 heard evidence from the experts that it was to do with                  4 matters to do with building and finances.                  5 But also negative reports received which exposed bad                  6 conduct, but which were not acted upon. We know, just                  7 by way of one example in particular on this issue, that                  8 Canon Craven had become aware of critical comments in                  9 the reports of Sir Ronald Cross and William Garnett                  10 about the standard of care of child migrants in                  11 Christian Brothers institutions in Western Australia.                  12 Canon Craven indicated to the Dominions Office that he                  13 doubted any more child migrants should be sent to these                  14 institutions until Catholic authorities in the UK had                  15 undertaken direct inspections themselves. The experts,                  16 Professors Constantine and Lynch, state that they found                  17 no evidence of any such inspections taking place.                  18 Despite expressing reservations, strong reservations, in                  19 1947 about reviving child migration, practical                  20 arrangements were made later that same year by                  21 Brother Conlon for the migration of a large party of                  22 child migrants recruited by him. Whilst the experts are                  23 unable to provide any reason for this, we invite you to                  24 consider whether reports which reflected badly on                  25 sending institutions were deliberately overlooked by the</p> <p style="text-align: center;">Page 55</p>
<p>1 children had it exercised its powers properly.                  2 We invite you to make a finding to this effect. But                  3 the institutions don't get off the hook. In relation to                  4 the sending institutions, we submit that, quite apart                  5 from the role played by the UK Government in the                  6 provision of approval, they themselves had                  7 a responsibility to ensure that the institutions to                  8 which child migrants were being sent were suitable for                  9 that purpose. We invite you to find that sending                  10 institutions abdicated that responsibility and wrongly                  11 left it, as it was seen, to the countries to which the                  12 children were sent and, in doing so, failed in their                  13 duty.                  14 The fourth is the provision of regular inspection                  15 reports. We submit that it was known by the sending                  16 organisations they should have obtained regular                  17 inspection reports as to the institutions as well as in                  18 relation to the welfare of the child migrant. We submit                  19 that you have heard evidence that the provision of                  20 regular inspection reports fell into one of these                  21 categories. There may be more. We simply put those by                  22 way of example. No reports obtained or received.                  23 Letters received from individual child migrants                  24 which were deliberately screened by the institutions and                  25 their staff to ensure a favourable picture of life in</p> <p style="text-align: center;">Page 54</p>	<p>1 institutions and the UK Government for reasons                  2 associated with -- we put it in this way -- limiting                  3 reputational damage which would then impact on revenues                  4 for those organisations.                  5 Of course, the political priority of                  6 the UK Government of settling white British stock in the                  7 Dominions. We invite you, in relation to this, to                  8 conclude that, knowing that they should have obtained                  9 and should have regularly received inspection reports                  10 which dealt with the welfare of child migrants, the                  11 sending organisations did not do so and, accordingly,                  12 failed in their duty.                  13 Dealing with actual institutional knowledge, we have                  14 no hesitation in submitting that the UK Government and                  15 the sending institutions were aware of allegations of                  16 sexual abuse concerning children involved in child                  17 migration programmes, notwithstanding that the issue of                  18 sexual abuse was a matter of public concern, as we have                  19 already stated. This inquiry has heard of specific                  20 references which permit you -- and we invite you to --                  21 to conclude that the sending organisations were aware of                  22 sexual abuse at the institutions to which children were                  23 being sent. We remind you, in particular, that the                  24 Council of Voluntary Organisations for Child Migration                  25 included within it all of the key sending associations.</p> <p style="text-align: center;">Page 56</p>

<p>1 Just because they were not in the minutes recorded --                  2 specific institutions weren't recorded, is my                  3 understanding of the evidence, and I will be corrected                  4 if I am wrong -- the minutes did not necessarily include                  5 all of the organisations. Simply because your name                  6 wasn't there, didn't mean you weren't involved. Its                  7 members, we suggest, were so closely involved with child                  8 migration, they would have known of all those matters                  9 relevant to the issue of child migration, including, we                  10 say, sexual abuse.</p> <p>11 Perhaps most significantly to the issue of actual                  12 knowledge was the quite shocking revelation that at the                  13 heart of the child migration process was someone who was                  14 involved in the sending and receiving of child migrants,                  15 a Father William Dominic Flint, a man whom, this inquiry                  16 heard, had had sexual allegations made against him. But                  17 in relation to specific matters, we set out here two of                  18 the matters which indicate actual knowledge and we                  19 recognise that Ms Weeraratne has set out 12 particular                  20 matters which would indicate, and I don't intend to                  21 repeat those. May I deal with those in brief? Because                  22 of the restriction of time, we have only taken two                  23 matters.</p> <p>24 The experts refer to the fact that Brother Conlon                  25 was aware of sexual abuse in Australia by</p> <p style="text-align: center;">Page 57</p>	<p>1 said in her written submissions -- there are at least                  2 12, and perhaps more, instances which give you, we say,                  3 an invitation to conclude that there was actual                  4 knowledge.</p> <p>5 Given that, we invite you to conclude that Her                  6 Majesty's Government and the sending institutions were                  7 aware of sexual abuse at the institutions to which child                  8 migrants were sent, and we are anticipating, with some                  9 interest, what the institutions are likely to say this                  10 afternoon about that particular issue.</p> <p>11 Furthermore, we ask that you make an additional                  12 finding, which follows on from what we have said,                  13 namely, that, despite being aware of sexual abuse, the                  14 sending institutions continued to send child migrants to                  15 the institutions in which sexual abuse was taking place.                  16 We don't resile from that, from seeking such a finding,                  17 as abhorrent as the implications are, but we are driven                  18 to that conclusion on the evidence before us that                  19 sending institutions simply did not care about the                  20 children they had sent. We submit that sending                  21 institutions were more concerned about the financial                  22 rewards of sending children, both in terms of                  23 the funding received from the UK Government, but also,                  24 for some of the sending organisations, the loss of                  25 revenue arising from the reputational damage of exposing</p> <p style="text-align: center;">Page 59</p>
<p>1 Christian Brothers against children in their care, and                  2 had complained to the Brothers' General Council in                  3 Dublin about the slow response of the Brothers'                  4 Provincial Council in Australia to these incidents. In                  5 1941, Brother Conlon also note to the General Council                  6 about another incident of sexual abuse by a brother in                  7 Adelaide, commenting:</p> <p>8 "As long as outsiders do not become aware of these                  9 things, we may hope for better times after the war."                  10 How true those words were. As we have heard,                  11 Brother Conlon was acting as a representative of                  12 the Catholic Welfare Council when he was recruiting                  13 child migrants, particularly from the                  14 Sisters of Nazareth. He was doing so apparently on                  15 behalf of the CCWC and in the knowledge that sexual                  16 abuse had taken place at the institutions concerned.</p> <p>17 The second matter we draw to your attention is                  18 a report by William Garnett of the UK High Commission                  19 in June 1943 which noted a case of sexual abuse of girls                  20 resident at the Northcote Farm School by teachers at the                  21 local state school. That's been dealt with there.                  22 I don't take you in any further detail in relation to                  23 that.</p> <p>24 Given the evidence, we say -- and it is not just                  25 those two examples; we rely on what Ms Weeraratne has</p> <p style="text-align: center;">Page 58</p>	<p>1 sexual abuse to charitable donors and the general                  2 public.</p> <p>3 We consider those were important and critical                  4 factors in this particular regard, which leads us on to                  5 consider a further issue, that of records and record                  6 keeping. One of the issues which we say has hampered                  7 the inquiry has been a lack of records. I appreciate we                  8 have had a lot of records but some records are still                  9 missing.</p> <p>10 We are concerned in particular with the lack of                  11 records from the Sisters of Nazareth. The inquiry has                  12 heard evidence that between 1938 and 1963, the                  13 institutions associated with the Sisters of Nazareth                  14 were responsible for the emigration of 65.5 per cent of                  15 children sent from the UK. They were substantially more                  16 involved in providing children for migration than any                  17 other religious order or any Catholic organisation in                  18 the UK.</p> <p>19 As Sister Doolan accepted in her witness statement                  20 at paragraph 39, "Despite the Congregation's heavy                  21 involvement in migration, there are scant records in the                  22 archive". She gives no explanation of why that might be                  23 the case.</p> <p>24 There are lots of records of other matters. Why are                  25 there no records of this? Despite the fact, and we know</p> <p style="text-align: center;">Page 60</p>

<p>1 this, that child migrants in their care reported sexual 2 abuse many years after it happened, there doesn't appear 3 to be any mention of such abuse in the archival material 4 that exists from the Sisters of Nazareth.</p> <p>5 We suggest that there may be a number of reasons for 6 this. Three. The different probabilities. Firstly, 7 that there was no sexual abuse of any child migrant sent 8 by the institutions associated with the 9 Sisters of Nazareth. Secondly, that there was sexual 10 abuse but the culture and regime which existed in its 11 institutions were such that children did not report it 12 for fear of harm or other similar reason. Or, thirdly, 13 that there was sexual abuse and it was reported but not 14 recorded.</p> <p>15 Now, we submit that the most probable explanations 16 are the last two, for three reasons. Firstly, the 17 inquiry has heard that sexual abuse actually did in fact 18 take place at the institutions associated with the 19 Sisters of Nazareth. I pause. I think 20 Sisters of Nazareth apologised for that, publicly 21 apologised, and accepted that there was.</p> <p>22 Secondly, the inquiry has heard that many of 23 the child migrants who suffered abuse were subject to 24 approbation and worse, if they reported it, and 25 thereafter stopped doing so. Thirdly -- and submissions</p> <p style="text-align: center;">Page 61</p>	<p>1 suggest that the response to contemporary allegations by 2 the institutions was far from satisfactory. We suggest 3 this for three main reasons. Firstly, from the evidence 4 of the child migrants themselves. We heard immensely 5 distressing evidence from child migrants in part 1 of 6 the inquiry hearings. It was a common refrain from all 7 of them that when they reported abuse, they were either 8 disbelieved, beaten or made to feel as if it was their 9 fault. That was not a satisfactory response to sexual 10 abuse allegations.</p> <p>11 Secondly, nothing changed when it was reported. 12 When sexual abuse was reported, the institution 13 continued as if nothing had happened.</p> <p>14 Thirdly, it took child migrants years of campaigning 15 and fighting, continuous fighting, for inquiries and 16 justice for the institutions were prepared to do 17 anything, to make any form of apology, open their books 18 and records to them.</p> <p>19 That is the material that we put before you in 20 relation to those issues. We move on then to our second 21 part.</p> <p>22 We now make submissions on what the inquiry should 23 recommend. Yes, it will be clear by the end of it that 24 some of these are aspirational, but we think that this 25 particular inquiry has an important legacy, has an</p> <p style="text-align: center;">Page 63</p>
<p>1 were made to the Australian Royal Commission by the 2 lawyers acting for the Christian Brothers -- they 3 acknowledged that the Brothers decided from the mid 4 1950s onwards that they would not record child sexual 5 abuse allegations in Provincial minutes.</p> <p>6 We therefore invite you to make a finding that the 7 lack of records of sexual abuse at the institutions was 8 not because it did not occur, but because either 9 children were too frightened to report it or the 10 institution stopped recording it.</p> <p>11 We consider that, in making a finding of actual 12 knowledge, a finding in relation to constructive 13 knowledge is not required. We will stop at that. But 14 nevertheless, for the avoidance of doubt, we invite you 15 to find that, even if the evidence does not go so far 16 as -- and we say it does, but if you decide that it does 17 not go so far as to show that each and every sending 18 institution was aware of sexual abuse, the material that 19 has been placed before this inquiry shows that the 20 UK Government and the sending institutions should have 21 been aware of allegations or evidence of sexual abuse 22 concerning children involved in child migration 23 programmes.</p> <p>24 Dealing with the next topic, it is perhaps 25 self-evident from what we have said already that we</p> <p style="text-align: center;">Page 62</p>	<p>1 important role to play, for what has been, and I remind 2 ourselves of, a shameful history affecting tens of 3 thousands of young people.</p> <p>4 Before we make those recommendations, we wish to 5 make three general observations. Firstly, we repeat 6 that which we said at the beginning of our particular 7 closing submissions. This inquiry has raised the 8 expectations of all child migrants, not just those that 9 have endured the painful experience of giving evidence 10 or participate in the process as core participants. 11 Those expectations, chair, will need to be met. 12 I cannot, we cannot, stress that enough. Child migrants 13 have waited too long and experienced too much for this 14 inquiry to produce, and forgive me for using the phrase, 15 a damp squib.</p> <p>16 Secondly, there is a real sense, as Mr Hill has said 17 already, of urgency as to what is needed. All of 18 the child migrants are -- forgive me, Mr Cosgrove -- 19 older people. More seriously, many have died waiting 20 for justice. Some shockingly, as we heard, 21 depressingly, as we heard, only recently so, without 22 getting a glimmer of hope. The recommendations need to 23 be made and implemented without delay before they become 24 redundant reminders of what might have been possible, 25 tantalisingly close but disappearing into the horizon.</p> <p style="text-align: center;">Page 64</p>



<p>1 Thirdly, the recommendations need to act as a proper  2 and lasting legacy to the thousands of child migrants  3 who suffered so terribly. We cannot just produce  4 recommendations which deal with the peripherals. We  5 have to deal with the fundamentals.  6 This means that the recommendations should not  7 simply be symbolic. They must effect lasting change and  8 not just for those who have lived through the process.  9 Millions of children still need protection, because, we  10 submit, there is still concern in terms of protection of  11 children, and the lessons that we learn from child  12 migrants, will be the lessons adopted for children in  13 the future.  14 Our first recommendation follows from what we said  15 in our opening submission. We submitted then it was for  16 the inquiry to establish what we call an acknowledged  17 truth. A rider by the institutions recognising,  18 acknowledging and accepting that sexual abuse took  19 place. We have been troubled, seriously troubled, by  20 some of what we have heard during this part, part 2, of  21 the inquiry, as to whether all the institutions involved  22 in child migration have accepted that sexual abuse took  23 place in their institutions.  24 I am not going to, we are not going to, descend into  25 the detail of who said what when for the purposes of</p> <p style="text-align: center;">Page 65</p>	<p>1 those investigating the allegation to do so on a basis  2 that prevents evidence from being missed. If you don't  3 believe the child, you are not going to be looking for  4 material that supports it.  5 Our third recommendation is that each and every  6 institution should be required to make a personal  7 apology, a personal apology, to those child migrants for  8 which they were responsible. We appreciate that many,  9 if not all, of the institutions involved in child  10 migration have previously made public apologies, and we  11 have heard apologies directly by witnesses on behalf of  12 the institutions at this very hearing, sitting in the  13 witness box. That may be the case. But, quite frankly,  14 we don't believe them. We don't believe them at all.  15 We consider that these public apologies are not genuine  16 and are not sincere. We believe that these apologies  17 were only made because the institutions were found out,  18 that they were made not as expressions of genuine  19 remorse or regret, but to try to salvage and repair  20 damaged reputations. Because, chair, they could have  21 been made years ago. Many, many years ago. But they  22 weren't. Not only were no apologies made then, but, as  23 we have heard from Mr Cosgrove, the response to  24 allegations has often been denial and blaming the  25 victim.</p> <p style="text-align: center;">Page 67</p>
<p>1 this submission, though we could have done, because we  2 invite you to recommend that every institution that  3 played a part in the emigration of children  4 unequivocally accepts -- unequivocally accepts -- that  5 sexual abuse took place during the child migration  6 programme as a prerequisite to addressing the problem  7 arising from it. You cannot solve the problem if you  8 don't accept that there is one.  9 This leads us neatly on to our second  10 recommendation. We were again troubled by some of  11 the comments we heard from some of the institutions as  12 to the approach that they had now adopted, ie, going  13 forward, in terms of reports of sexual abuse. We heard,  14 it seems, certainly from some, that institutions  15 believed that reports of sexual abuse should be  16 limited -- I use that word advisedly -- to be taken  17 seriously without any reference to whether they are to  18 be accepted as being true. We found that troubling.  19 We suggest that the proper approach is that any  20 allegation of sexual abuse should be treated as being  21 true unless material comes to light that it is not.  22 This approach then gives confidence to the child that he  23 or she has been believed and, perhaps more  24 importantly -- and this is relevant to issues of racial  25 incidents and that is how they are treated -- it forces</p> <p style="text-align: center;">Page 66</p>	<p>1 It seems to us, chair, that, despite the evidence  2 that has emerged during this inquiry, the institutions  3 still believe that they did nothing wrong because -- and  4 this is the key, we suggest -- they ask that their  5 actions -- and on a cursory glance of some of  6 the submissions made, we believe that this position is  7 going to be adopted this afternoon -- to be considered  8 in the light of what was acceptable back then and not  9 now. That's how they excuse it.  10 Take, for example, Sister Doolan's statement at  11 paragraph 29, where she states:  12 "It is important the involvement of the Congregation  13 in the scheme should be seen and considered in its  14 historical context. The belief at the time was that the  15 Congregation was acting in the best interests of  16 the children in its care."  17 Did Sister Doolan not hear our opening submissions  18 when we suggested in terms that there could never be  19 a time when sexual abuse was considered acceptable? Or  20 consider this, the statement of Bishop Stock at  21 paragraph 39, where he states in relation to the  22 allegation of sexual abuse on a ship dealt with by the  23 captain. He stated this:  24 "Whether or not the ship's captain's response might  25 be considered adequate, it seems to me difficult to see</p> <p style="text-align: center;">Page 68</p>

<p>1 what the chaplain (or either of the two nuns on board 2 accompanying the children) could or should have done in 3 response to the allegation." 4 Did it not occur to the bishop that one of 5 the things that they could have done is to enquire if 6 any other child had suffered a similar fate? If they 7 had done that, they may have uncovered the degree of 8 sexual abuse that was taking place that we have now 9 heard about. But, more importantly for our submissions, 10 both these examples reflect, we suggest, a lack of 11 insight which comes from not having a genuine 12 understanding and appreciation of the problem. It was 13 also reflected, very disappointingly, we say, in the 14 manner in which Bishop Stock and Mary Gandy gave 15 evidence to this inquiry, and we were troubled by that. 16 We could not help but note that they were very reluctant 17 to stray from their statements or volunteer information 18 above and beyond that which was written. They gave the 19 impression that they didn't want to get caught out and 20 say something which might get them into even more 21 trouble, and before others who follow behind me seek to 22 criticise what has just been said, we appreciate that 23 all witnesses have lawyers and statements are drafted 24 carefully, we appreciate all that, we accept all that, 25 but the giving of evidence, particularly in these</p> <p style="text-align: center;">Page 69</p>	<p>1 receive a personal apology or financial redress from the 2 Sisters of Nazareth. Despite his lawyers writing to 3 their lawyers the day after her evidence. Perhaps it is 4 because it was not a genuine apology and it is perhaps 5 repeating what Sister Doolan said: 6 "Ms Hill: One further question, if I may, Sister. 7 It is going back to the apology that you have repeated 8 here. Are you apologising, at least in part, because 9 you accept that some former child migrants were sexually 10 abused? 11 "Answer: Yes, certainly. If any of our former 12 children were sexually abused ..." 13 "If any of our former children were sexually 14 abused": 15 "Answer: ... we would be very sorry for that that 16 that occurred." 17 We submit that that is not a genuine, remorseful and 18 unequivocal apology when it is prefaced by the word 19 "if". 20 Mr Cosgrove sincerely believed that the 21 Sisters of Nazareth accepted that what they did was 22 wrong, but is her evidence indicative of how the 23 institutions propose to conduct themselves once these 24 public hearings are over and the issue is out of 25 the public eye? We certainly hope not. That is why</p> <p style="text-align: center;">Page 71</p>
<p>1 circumstances, and from those institutions who have been 2 called to account, is incredibly important, because it 3 is not only what you say but how you say it. 4 If the impression left with the victims, and it has 5 been left, is that the Catholic Church and its 6 associated institutions are simply going through the 7 motions, it can only mean one thing: they have not 8 learnt from the past and they lack insight, which means 9 that we have a grave, serious problem for the future. 10 Just by way of example, I am a criminal lawyer. 11 I often appear in front of judges mitigating on behalf 12 of defendants who have either pleaded guilty or been 13 convicted of a criminal offence. The defendant in these 14 cases seeks to persuade the judge that he or she is no 15 longer a danger to society or at risk of further 16 offending by way of mitigation. Probably the only way 17 a defendant is able to convincingly provide evidence of 18 that is if he or she can demonstrate insight and genuine 19 remorse. In our submission, the Catholic Church in 20 particular has demonstrated neither and remains at risk 21 as far as children in its care are concerned. A genuine 22 personal apology would be a good start to change that 23 position. But despite Sister Doolan apologising in 24 public from that very chair in front of Mr Cosgrove in 25 which she gave evidence, Mr Cosgrove is still waiting to</p> <p style="text-align: center;">Page 70</p>	<p>1 we invite you to recommend a personal apology from each 2 and every institution. I would invite them to do it 3 today. However, an apology is not enough. 4 As recognised by Gordon Brown -- madam chair, I know 5 the time. I am going to run over slightly. I am 6 telling you in advance. I have a few more pages, and 7 apologies. 8 However, an apology is not enough. As recognised by 9 Gordon Brown, an apology is only the beginning of 10 the process. What is desperately needed, as Mr Hill has 11 said, and needed urgently, is a process of redress. We 12 consider that no institution has properly dealt with the 13 issue of reparation and we invite you to recommend the 14 setting up of a redress scheme which has as its aim -- 15 I use these words were carefully -- to provide such 16 financial compensation to help child migrants to 17 overcome the damage that they suffered and to give them 18 back their dignity. This is not simply damage to 19 compensate for what child migrants have suffered, but 20 compensation, underlined, to overcome the damage that is 21 suffered. This is more than putting the victim in civil 22 proceedings. Chair, you may be aware, in civil claims 23 it is putting claimant back to the position they were 24 before the event. This is more than that. Because it 25 is going to take years to overcome what these child</p> <p style="text-align: center;">Page 72</p>

<p>1 migrants went through.                  2 This principle -- and it comes, may I say, and I am                  3 cheating a little bit here, it is not my own particular                  4 proposition, it was part of the Truth and Reconciliation                  5 Commission in South Africa, so there is some precedent                  6 for this process. This principle takes into account and                  7 recognises damage, the deep damage, caused and the                  8 length of time it will take to heal for child migrants.                  9 We invite you to adopt the suggestion made by                  10 Gordon Brown that every child migrant is given a one-off                  11 payment -- we don't determine that here, I think the                  12 ex-Prime Minister said it was £20,000 or some such                  13 number, for the mere -- forgive me if I use the word                  14 "mere", it is not mere, but the mere fact they were                  15 child migrants. There should then follow a scheme which                  16 caters specifically to the child migrants' needs. We do                  17 not seek, today, to address you on the detail here, save                  18 to say that any such scheme should disregard any                  19 financial or other relief obtained by a child migrant                  20 outside the UK and that liability should be shared by                  21 Her Majesty's Government and all those institutions that                  22 were in any way involved in the emigration of that                  23 child.                  24 Given that the matters complained of occurred many                  25 years ago, those institutions considered liable may</p> <p style="text-align: center;">Page 73</p>	<p>1 amended so it does not apply to claims made by those                  2 seeking to take action for abuse suffered during their                  3 childhood.                  4 We also invite you to recommend that the fact of                  5 being a child migrant should be considered as being                  6 automatically eligible for an award of aggravated or                  7 exemplary damages in civil proceedings. We can provide                  8 greater submissions on that, but I am sure, chair, you                  9 are aware those are phrases which are used in civil                  10 claims.                  11 In order to assist the system of redress, we invite                  12 you to consider recommending the adoption of a formal                  13 diagnosis -- I don't know whether this has been done.                  14 Mr Cosgrove and I have looked into this -- called "Child                  15 Migrant Syndrome". You will appreciate that, having                  16 heard live evidence from a number of child migrants,                  17 there were features of their evidence which were common                  18 to all. We concede that such a syndrome will have                  19 within it psychiatric disorders which are already known                  20 and recognised: PTSD, Post-Traumatic Stress Disorder.                  21 But there are, we submit, other features which are                  22 inimical to child migrants. We set out some of them:                  23 loss of identity; poor health; literacy. We did put                  24 criminality there, but we don't want to suggest that                  25 child migrants are criminals, I hope you understand what</p> <p style="text-align: center;">Page 75</p>
<p>1 choose to hide, we regret, behind the statutory time                  2 limit which prevents claims being made outside                  3 a specified period unless it is disapplied either                  4 through agreement with the other party or at the                  5 discretion of the court. We consider, though we now                  6 think it might be possible, but it would be wholly                  7 unfair for any institution to seek to defend itself by                  8 recourse to limitation dates. But we are very conscious                  9 that they may. We hope not, but we know and we are                  10 conscious they may. We know there is no such limitation                  11 period for serious criminal offences. I use "serious                  12 criminal offences" because, chair, as you know, there                  13 are minor offences which can be dealt with in the                  14 Magistrates' Court which have a six-month time limit.                  15 In the Crown Court, serious offences, there is no                  16 limitation.                  17 We see no reason why the Limitation Act 1980 should                  18 apply in the case of child migrants. Indeed, we do not                  19 see why the issue should restrict any person from making                  20 a claim for abuse suffered during their childhood. If                  21 it is not required in serious criminal cases, we say why                  22 should it be necessary in civil cases involving serious                  23 harm. And I put "serious harm" to reflect the similar                  24 proposition in terms of criminal offences. We therefore                  25 invite you to recommend that the Limitation Act 1980 is</p> <p style="text-align: center;">Page 74</p>	<p>1 we are saying. It has led to some individuals getting                  2 into trouble. Homelessness; lack of family support;                  3 emotional shallowness; financial literacy, and so on and                  4 so on.                  5 We submit such a classification will assist both                  6 child migrants and those who care for them to put a name                  7 on the issue, "What's happened to me? Why am I in this                  8 way?", and assist in the healing process. It will also,                  9 we suggest, mark the gravity of the harm caused by                  10 recognising the problem as a formal condition.                  11 In terms of liability, we invite you to make                  12 a further recommendation based on the evidence we have                  13 heard in relation to the Catholic Church in particular.                  14 We were troubled by the exposition of the somewhat                  15 complex character of the Church. We heard about                  16 "horizontal" and "vertical" and "diagonal" -- I'm not                  17 entirely sure -- which appeared to excuse                  18 responsibilities. I haven't got my head around the                  19 structure of the Catholic Church, but we are concerned                  20 that such complexities, if they still exist within the                  21 Catholic Church may permit the Catholic Church from                  22 escaping or passing on liability. We appreciate, with                  23 the greatest respect, that this inquiry is not so                  24 powerful it could force the Catholic Church to change                  25 its structures, but it can recommend that the law of</p> <p style="text-align: center;">Page 76</p>

<p>1 the UK is changed such that it imposes in statutory                  2 form -- in case law, in common law, there is provision                  3 for allegations made for members of the Church, for                  4 there to be vicarious liability. We invite you, if it                  5 is not already there and if we have missed it, that                  6 there is a recommendation that there is statutory basis                  7 for vicarious liability to be imposed on the                  8 Catholic Church and, to use the words of Bishop Stock                  9 himself, a "vertical" responsibility is imposed so that                  10 the hierarchy of the church is, without any doubt, and                  11 in all circumstances, vicariously responsible for the                  12 sexual abuse of its members, whichever order they are                  13 from. In this way, the Catholic Church would not be                  14 able to hide behind the apparent complexities of its                  15 structures.</p> <p>16 I'm almost finished, chair. We next invite you to                  17 provide a means by which child migrants might be able to                  18 participate in any redress scheme or take action against                  19 those institutions considered to be responsible who may                  20 wish to deny responsibility. That is Legal Aid or                  21 public funding, whatever phrase is now in vogue.</p> <p>22 We submit that there is no point in setting up                  23 schemes to compensate child migrants if they cannot get                  24 access to them. This is why non-means tested legal help                  25 and Legal Aid should be made automatically available to</p> <p style="text-align: center;">Page 77</p>	<p>1 happened to child migrants and ensures that it is never                  2 repeated.</p> <p>3 We consider that to be a lasting legacy, an                  4 important legacy. Of course it would be up to the                  5 UK Government to do so, but we invite you to make such                  6 a recommendation. We have drafted a suggestion -- only                  7 a suggestion -- in the last few days, along these lines:                  8 "State parties deplore and condemn the suffering                  9 caused to the thousands of child migrants sent from the                  10 UK to its then Dominions for the purpose of settling                  11 white British stock. State parties shall ensure that no                  12 such child migration scheme ever happens again."</p> <p>13 We further invite you to recommend the introduction                  14 of legislation which permits the prosecution in the UK                  15 of any person of any nationality for the offence of                  16 sexual abuse of a child in the same manner, in much the                  17 same manner, as section 134 of the Criminal Justice Act                  18 1988 which makes it an offence for any public official                  19 acting in his official capacity, whatever his                  20 nationality, to be prosecuted if he or she committed the                  21 act of torture, wherever in the world. He can be                  22 prosecuted in this country.</p> <p>23 It is known as an offence of universal jurisdiction.                  24 We consider that the sexual abuse of a child should be                  25 similarly made an offence of universal jurisdiction and</p> <p style="text-align: center;">Page 79</p>
<p>1 those individuals identified as child migrants. Chair,                  2 I'm fully aware of this: some cynics may view this                  3 recommendation as yet another scheme to benefit lawyers.                  4 The serious point is this: the provision of Legal Aid is                  5 a key factor in the victim gaining access to justice,                  6 particularly when it is likely that the institutions                  7 that they are up against will be represented to the                  8 hilt. You just have to look behind me to see how the                  9 institutions are represented. Child migrants need to                  10 have the same ability to get access to decent lawyers,                  11 myself excepted.</p> <p>12 Our final two recommendations concern legacy, and                  13 they are, and you may consider they are, aspirations,                  14 but we do put them forward seriously. We submit that                  15 child sexual abuse should be an act which should be                  16 universally condemned and should have the status of                  17 a peremptory norm. In Latin -- if you like that sort of                  18 thing, Mr Cosgrove -- "jus cogens", ie a fundamental                  19 principle of international law that is accepted by the                  20 international community of states as a norm from which                  21 no derogation is permitted. We submit that it would be                  22 an appropriate and lasting legacy to the victims of                  23 the child migrant programme that an additional article                  24 be inserted into the United Nations Convention of                  25 the rights of the child which universally condemns what</p> <p style="text-align: center;">Page 78</p>	<p>1 we therefore invite you to recommend the introduction of                  2 a similar Act.</p> <p>3 I end with Mr Cosgrove's own words. You will recall                  4 that he wanted to make a statement from the witness box.                  5 I quote:                  6 "Christian Brothers Conlon and Keaney, overweening                  7 in their hypocrisy and bullying, secrets and lies,                  8 corrupted childcare standards and cast abroad into the                  9 hands and beds of dangerous men the most bereft of                  10 Britain's young."</p> <p>11 Madam chair, thank you very much.</p> <p>12 THE CHAIR: Thank you, Mr Khan and Mr Cosgrove.</p> <p>13 MR FORD: Chair, I have been asked whether I am happy to                  14 start my submissions. I'm happy to start. I can't                  15 promise to finish.</p> <p>16 MS HILL: Chair, it is a matter for you. I did pass my                  17 learned friend a note, but Mr Khan has perhaps taken                  18 slightly longer than I thought. We are rather closer to                  19 the luncheon adjournment than I thought we might be. It                  20 is a matter for you and the shorthand writers.</p> <p>21 THE CHAIR: I think we will take the lunchbreak now and                  22 return at 1.50 pm. Thank you.                  23 (12.50 pm)                  24 (The short adjournment)                  25 (1.50 pm)</p> <p style="text-align: center;">Page 80</p>

<p>1 Closing submissions by MR FORD  2 MR FORD: Chair, panel members, good afternoon. We have put  3 in a document which sets out everything that Barnardo's  4 wishes to say in relation to this module, and I am not  5 going to speak to every point that appears in there; far  6 from it. I am conscious that the panel will not of  7 course yet have had the opportunity to absorb the detail  8 that's contained in that note. That is something for  9 a later date.  10 What I hope will be helpful for us to do now on  11 behalf of Barnardo's is simply to identify what appears  12 in that document, navigate you through it, as it were,  13 but draw out, as we do so, the main themes that we  14 advance on behalf of Barnardo's, the headlines, as it  15 were, of Barnardo's case.  16 We start off under introduction by emphasising and  17 reiterating two things about which the panel has already  18 heard. The first is that Barnardos has made from the  19 witness box an apology. Barnardos accepts that sexual  20 abuse occurred to children in its care in the course of  21 child migration programmes. Barnardos apologises and is  22 truly sorry that that happened and for the harm that  23 that caused to child migrants -- no ifs, no buts.  24 Also, the panel has heard in the opening statement  25 we made on Barnardo's behalf that it is now nearly</p> <p style="text-align: center;">Page 81</p>	<p>1 issues is essentially identical to the test that would  2 be applied in any such civil proceedings, we thought it  3 might be helpful to set out how the common law deals  4 with those issues.  5 The only point I actually want to make in  6 submissions now is the point we have made at paragraph 7  7 on page 3, because one of the principles that's well  8 established at common law is that if a judge is being  9 asked to identify whether a person professing  10 a particular skill has met a reasonable standard of  11 care, then it is a requirement that expert evidence is  12 adduced to identify what reasonable standards were at  13 the time that the incident in question took place, and  14 we have cited authority for those propositions.  15 That evidence, as we understand it, it is accepted  16 is not before this panel. Nobody, as we understand it,  17 thinks that Constantine and Lynch, in spite of  18 the enormous amount of work they have done in relation  19 to the documents, are experts in social care practice in  20 the '50s and '60s, and, as we understand it, the  21 position of counsel to the inquiry is that any opinions  22 that they express about the standards of care in that  23 period are not relied on, and that must be right because  24 those opinions would not be admissible evidence.  25 The proposal is that the panel will be asked to</p> <p style="text-align: center;">Page 83</p>
<p>1 20 years ago that the then chief executive of Barnardos,  2 before the Select Committee on Health hearing  3 in June 1998, described the practice of child migration  4 as "barbaric" and "dreadful". Barnardos also accepts,  5 quite apart from any experience of sexual abuse that  6 children suffered, that the mere process of migrating  7 children was capable of causing, and did in fact cause  8 in many, many cases, significant and irreversible  9 damage, and Barnardos has long accepted that the policy  10 of child migration was misguided and wrong.  11 But, of course, this case study is not about the  12 rights and wrongs of child migration. This case study  13 is about institutional responses to sexual abuse. The  14 next matter that we have dealt with in the written note,  15 under the heading "Legal issues" is essentially the  16 point that has caused some debate under the heading of  17 "The standards issues".  18 For reasons I will come to, I am not going to set  19 out in any detail what we say there. We hope, helpfully  20 to the panel's deliberations, we have identified at  21 paragraph 4 on page 2 what the position would be at  22 common law. Now, of course, this is not a damages  23 hearing in relation to an agency being sued for sexual  24 abuse, but as the test that the counsel to the inquiry  25 have indicated the panel is to apply to the standards</p> <p style="text-align: center;">Page 82</p>	<p>1 identify the relevant standards from the contemporaneous  2 material, and it is in that context that we make the  3 point we do at paragraph 7. Some core participants have  4 said that this is a relatively straightforward task that  5 simply involves looking at, for example, the  6 Curtis Committee, the legislation that came from it, and  7 the Ross Committee to see what standards were, and there  8 it is set out in black and white. But we say that that  9 is a process that requires a good deal of caution. We  10 make the point at paragraph 7 that reports such as that  11 of the Curtis Committee are principally designed to  12 identify what standards ought to be, not what they  13 actually are, and we say that the panel should be  14 careful to ensure that if, for example, they look at the  15 Curtis Committee where a particular prevailing practice  16 is identified, but a recommendation is made as to how  17 things should be done in the future, the issue that the  18 panel is concerned with is not whether Barnardo's  19 practice met up with the recommendation, but whether the  20 prevailing practice was reasonable when judged by the  21 standards of the day. That is the point we make there  22 at 7 and we submit that that is the right approach for  23 the panel to take.  24 But the reason why I say we don't feel the need to  25 go into enormous detail about that is really because of</p> <p style="text-align: center;">Page 84</p>

<p>1 the point made at 8. The point we make at 8, which is                  2 the fundamental position that Barnardos take in respect                  3 of this case study, is that, whatever standard the panel                  4 ultimately considers it is right to apply, and whatever                  5 evidence the panel considers it can divine that standard                  6 from, it is Barnardo's case that it met that standard.                  7 Barnardos is not saying its practice was perfect. It                  8 recognises that its practice needed to be kept under                  9 review, and it was kept under review by the various                  10 delegations that went out to Australia, to                  11 New South Wales, from London, for example, in 1948 and                  12 1967.                  13 But it does say that its practice was reasonable                  14 when judged by the standards of the day.                  15 What appears in the rest of our written note really                  16 is our analysis of the evidence which we say supports                  17 that submission. That appears under section C, starting                  18 on page 4, as you can see, with Barnardo's involvement                  19 with child migration, dealing with numbers, and                  20 destinations and so on; Barnardo's structures, its                  21 internal and governance structures; and Barnardo's UK                  22 relationship with Barnardos, Australia.                  23 At the bottom of page 5, paragraph 11, we deal with                  24 selection and consenting. We set that out in some                  25 detail. We do caveat it by saying that our submission</p> <p style="text-align: center;">Page 85</p>	<p>1 sufficiency of care. We set out there our case really                  2 under four separate headings, which I will just                  3 summarise. The first is that Barnardos met, we submit,                  4 the aspirations set by the Curtis Committee, which was                  5 that standards of care in residential institutions in                  6 Australia should be equivalent to the standards of care                  7 that children could expect in the UK. Under paragraph 2                  8 on page 11, we say why that is, and we refer to the                  9 governance and oversight that London exercised over                  10 Australia, the flow of information, the use of                  11 the Barnardo's book across all of Barnardo's operations                  12 throughout the world, and so on. That's point 1.                  13 Point 2 is that, notwithstanding the caution I said                  14 should be applied to the process of gleaned standards                  15 from contemporaneous reports, our submission is that, in                  16 fact, when one looks at the Curtis Committee Report, the                  17 Women's Group Report and the Ross Committee Report, what                  18 was recommended in those reports was in fact consistent                  19 with Barnardo's practice at the time. Just by way of                  20 example, we give references there to evidence that                  21 suggests that Barnardos used the small cottage home                  22 principle rather than large residential institutions;                  23 that children were assimilated into the local community,                  24 that pre-migration training was given, that staff and                  25 escorts were trained and that sibling groups were kept</p> <p style="text-align: center;">Page 87</p>
<p>1 is that, really, selection and consenting can only have                  2 a relatively tenuous connection with the question of                  3 whether children were sexually abused and Barnardo's                  4 responded appropriately. We set out why we say that.                  5 But nonetheless, evidence about selection and consenting                  6 has formed quite a significant part of the evidence the                  7 panel has heard, and so we have dealt with it in                  8 relative detail.                  9 Our submission on it is at paragraph 18 on page 8,                  10 where we say that Barnardo's case is that its policies                  11 and practices in relation to both consenting and                  12 selection were reasonable when judged by the standards                  13 of the day. In fact, in relation to those particular                  14 matters, for the reasons we have given, it would be our                  15 submission that Barnardo's policies were probably                  16 significantly superior to that. But certainly they met                  17 the reasonable standard at the time.                  18 The next section deals with monitoring and                  19 inspection, and from paragraph 22 onwards, we deal with                  20 other aspects of Barnardo's system, preparation for                  21 migration, escorts, integration into community, contact                  22 with family, repatriation if it didn't work out, and                  23 issues of that sort.                  24 Under paragraph D, we come to one of the significant                  25 issues the panel needs to consider, which is the</p> <p style="text-align: center;">Page 86</p>	<p>1 together and so on: all part of Barnardo's practice and                  2 all things which those various reports indicated ought                  3 to be part of the practice of those engaged in child                  4 migration.                  5 The third point we take in relation to standards                  6 concerns the Ross Committee -- paragraph 5 on page 12.                  7 As the panel knows, the Ross Committee visited Burwood                  8 and Normanhurst, two Barnardo's institutions, and                  9 although the report was significantly critical of                  10 a number of homes in its black list, no home run by                  11 Barnardos appeared on that list and nor did Barnardos                  12 migrate any children to the homes that were criticised.                  13 Fourthly, and we have set out the detail of this                  14 somewhere else where in the document, it is Barnardo's                  15 submission that they complied with the statutory                  16 requirements and regulatory requirements, even the draft                  17 regulations which were never implemented in the 50s, the                  18 statutory requirements under the two Acts by which                  19 children were in its care, set out there at paragraph 6,                  20 and, indeed, we submit that Barnardo's practice actually                  21 was consistent with the 1981/1982 regulations, which                  22 were brought in of course long after Barnardo's                  23 involvement in child migration had ended.                  24 In fact, chair, when we made our opening submissions                  25 to the panel on Day 1, we made a number of those points.</p> <p style="text-align: center;">Page 88</p>

<p>1 We said Barnardo's practices concerning selection and                  2 consenting of child migrants were good when judged by                  3 contemporaneous standards and would stand up to scrutiny                  4 today; that homes run by Barnardos in New South Wales                  5 were operated in a manner consistent with the standards                  6 in the UK; that there was a robust regime of visiting of                  7 children and inspection of homes and reporting back to                  8 the UK; and that the standards operated by Barnardos in                  9 Australia in '46 to '65 were generally consistent with                  10 the reports that I have already mentioned that were                  11 written during that period. So we defend Barnardo's                  12 position in relation to contemporaneous standards and we                  13 say on Barnardo's behalf that the standards were met.                  14 We then deal, under subheading E, with specific                  15 abuse, and of course the scandal at Picton. We set out                  16 in some detail a narrative of the events at Picton                  17 between paragraphs E(3) to paragraph E(20). There is                  18 also, as you will have seen, attached to the document                  19 both a list of the individuals involved -- so it is                  20 quite a lot of liaison between Sydney, Canberra and                  21 London. The roles performed by those people involved                  22 are set out there and next there is a chronology -- we                  23 hope a comprehensive but a neutral chronology -- of all                  24 of the events that surrounded Picton and the                  25 communications that took place between the various</p> <p style="text-align: center;">Page 89</p>	<p>1 Finally, members of the panel, we deal with other                  2 abuse of which Barnardos has subsequently become aware,                  3 and over the last couple of pages summarise the evidence                  4 on support and reparations.                  5 Chair, we hope that is a comprehensive analysis of                  6 our case. As I say, we know it hasn't yet been read.                  7 If we can assist further in writing in the future, we of                  8 course will do so, and if I can answer any questions                  9 now, I'm happy to.                  10 THE CHAIR: Thank you, Mr Ford.                  11 MR FORD: Thank you very much.                  12 Closing submissions by MR RAWAT                  13 MR RAWAT: Good afternoon, chair. Good afternoon, members                  14 of the panel. As you know, I appear on behalf of                  15 the Sisters of Nazareth. The panel will have received                  16 our written submission, and, again, as Mr Ford pointed                  17 out, we appreciate that you have not had a proper                  18 opportunity to read that submission.                  19 I don't propose to take the panel through it in                  20 detail. Should any questions arise after the panel has                  21 considered the submission, we can, of course, deal with                  22 those matters in writing.                  23 What I should point out is, the intent behind the                  24 closing submission was to focus on the scope of the case                  25 study, which of course is concerned with institutional</p> <p style="text-align: center;">Page 91</p>
<p>1 agencies.                  2 We set out Barnardo's case in relation to Picton at                  3 the bottom of page 17 at paragraph 25, which again is                  4 really that, however the panel chooses to identify the                  5 standard and whatever the standard is, it is Barnardo's                  6 case that in reporting the abuse at Picton, both to its                  7 London headquarters, to the police, to the State                  8 Government, to the national government in Australia and                  9 to the national government in the UK, by cooperating                  10 with the prosecution and, ultimately, conviction of                  11 those people involved, by imposing its own suspension on                  12 migration and accepting the suspensions that national                  13 governments placed upon it, by sending over senior                  14 members to assist in the investigation into the                  15 allegations that were made there, by migrating no                  16 children at all to New South Wales in 1958 -- and one                  17 picks that up from the table near the beginning of                  18 the experts' report, the first main report, which has                  19 a grid of the numbers of children sent by its agency                  20 over the period, and none sent by Barnardo's in 1958 at                  21 all; by inspecting Picton and Normanhurst to ensure that                  22 children were safe there; and only then resuming                  23 migration to New South Wales. We do ask the rhetorical                  24 question, what else is it said that Barnardo's ought to                  25 have done to deal with that appalling scandal?</p> <p style="text-align: center;">Page 90</p>	<p>1 responses to allegations of child abuse. The submission                  2 divides into two parts. The first concerns the                  3 involvement of the Sisters of Nazareth in the child                  4 migration programme, and that doesn't deal with the                  5 entirety of child migration, or indeed with the entirety                  6 of the Catholic Church's involvement in child migration.                  7 You have other material from which that can be gleaned.                  8 What we have sought to do is to address a number of                  9 specific matters that have arisen in the course of this                  10 case study.                  11 It is important to make clear from the outset,                  12 chair, that the Sisters of Nazareth didn't come into                  13 this case study with the intention of minimising or                  14 otherwise obscuring the Order's involvement in child                  15 migration and particularly the programmes that came into                  16 being in the aftermath of World War II.                  17 Like all other core participants representing                  18 institutions and organisations, we are not here to                  19 justify the practice of child migration.                  20 The Order recognises, however, that its capacity to                  21 assist the inquiry in this case study has been hampered                  22 by a lack of documents in its archive on the issue of                  23 child migration, and we have tried, in the submission,                  24 to give reasons as to why that might have occurred. But                  25 it is a fact and a reality.</p> <p style="text-align: center;">Page 92</p>

<p>1 The archive does contain records relating to                  2 individual children, but what the searches have not                  3 disclosed are documents that shed light on the reasons                  4 behind decisions made in the 1940s and '50s by the                  5 leadership of the Sisters of Nazareth in connection with                  6 child migration.                  7 A question has arisen from submissions before the                  8 lunchtime adjournment as to the lack of documents in the                  9 Sisters of Nazareth archives. Can I assure the panel                  10 that proper searches of the archive have been made and                  11 requests for information have been responded to as best                  12 as possible. This isn't the first inquiry in which the                  13 Sisters of Nazareth have been asked to make disclosure,                  14 and there's been no suggestion, as far as I'm aware, in                  15 previous inquiries that the organisation has either                  16 withheld or failed to disclose documents.                  17 With that limitation as to the availability of                  18 documents in mind, we have endeavoured in the written                  19 submissions to address the role played by the                  20 organisation in child migration. I am not going to                  21 detail it, but just to sort of set out in outline, we                  22 have addressed the numbers of children sent from                  23 Nazareth House to Australia, and that is important                  24 because it is not the position of                  25 the Sisters of Nazareth, as I said, to ignore its role,</p> <p style="text-align: center;">Page 93</p>	<p>1 scheme. It is one where we see the first appearance of                  2 Brother Conlon on the scene. Its importance is that we                  3 say one sees, when you look at the 1938 scheme, features                  4 which recur post war. So you have the support of                  5 the Australian Catholic hierarchy, you have the                  6 involvement and support of senior Catholic clergy in                  7 this country, you have the availability of government                  8 funding pursuant to the Empire Settlement Act, and you                  9 have what is perhaps a curious feature of how the                  10 Sisters of Nazareth fit into the overall scheme, and                  11 that is a funding agreement put in place in which the                  12 Sisters of Nazareth are not a signatory.                  13 We have addressed as well a point which has arisen                  14 in submission this morning, which is the direct                  15 recruitment of children by representatives of                  16 the Australian Catholic hierarchy. There are three                  17 names that the inquiry will have heard of. The first is                  18 Brother Conlon, who comes in 1946, and we then see the                  19 first migration of children in 1947.                  20 We then have Father Nicol and then Father Stinson.                  21 There is the evidence that the inquiry will be aware                  22 of, and I think the word that's been used is                  23 "circumvented", but these were three representatives of                  24 the Australian Catholic hierarchy who essentially went                  25 directly to religious orders in this country and</p> <p style="text-align: center;">Page 95</p>
<p>1 and it is quite right that the Sisters of Nazareth have                  2 long been aware that the greater majority of Catholic                  3 children who left for Australia between 1947 and 1956                  4 had been placed in Nazareth Houses in the                  5 United Kingdom, and we have set out in the submission                  6 the percentages and numbers and the sources for that.                  7 We have also tried to explain the work of                  8 the Sisters of Nazareth at that relevant time in                  9 providing residential childcare and, by analysing the                  10 evidence as to the Congregation's involvement in child                  11 migration before World War II, have sought to set out                  12 a rationale for its post-war involvement, and the                  13 motivations, perhaps some of which the panel will now be                  14 familiar, having heard evidence, the desire to spread                  15 the Catholic faith, economic conditions prevailing in                  16 Britain, desire to give children a better life in a new                  17 country, being cared for in a Catholic institution,                  18 those motivations were similar to that expressed in                  19 relation to other Catholic organisations, and perhaps                  20 the additional point to raise is that the feedback that                  21 the Sisters of Nazareth had in terms of the benefits of                  22 pre-war migration may well have influenced the decision                  23 to become involved in post-war child migration.                  24 We have dealt specifically with what we call in the                  25 submissions the 1938 scheme, sometimes called the Tardun</p> <p style="text-align: center;">Page 94</p>	<p>1 sometimes to rescue societies to recruit children.                  2 One of the orders approached was the                  3 Sisters of Nazareth.                  4 That links to a question that I think arose in the                  5 part 2 hearing, which was whether the                  6 Sisters of Nazareth were ever members of the Catholic                  7 Child Welfare Council. They were not. It was                  8 a representative body for the rescue societies, and we                  9 have addressed that again in the written submissions.                  10 If you look -- and no doubt the panel will want to do                  11 so, but if you run through the annual minutes of                  12 the meetings of the Catholic Council for the Welfare of                  13 Children, it shows two things: firstly, the                  14 representation of the rescue societies exclusively at                  15 that time were represented by men; secondly, there was,                  16 on other issues concerning child welfare -- not child                  17 migration -- communication between the                  18 Sisters of Nazareth and the CCWC.                  19 Finally, we have dealt in this first part with the                  20 question of selection, consent and monitoring after                  21 migration, and we have tried to identify and set out how                  22 the Sisters of Nazareth at the relevant time approached                  23 these matters. They are, we make the point -- there is                  24 the question of how relevant they may be to the issue                  25 that the panel has to decide, the institutional response</p> <p style="text-align: center;">Page 96</p>



<p>1 to allegations of child abuse, but perhaps one of                  2 the things to point out in relation to consent -- and we                  3 say one has to recognise that there are wider issues                  4 around child migration that fall outside the scope of                  5 this case study. The question of parental consent, if                  6 one looks at the material, is plainly a question that is                  7 of great importance to former child migrants.                  8 But it isn't an issue that has been gone into in                  9 great detail in the course of this case study. If one                  10 steps back from it and looks at the lack of records,                  11 that those concerned have died and the passage of time,                  12 it is difficult to confirm whether parental consent was                  13 obtained in one individual case and then why it wasn't                  14 obtained in another. But there is, and we set it out,                  15 evidence to show that the Sisters of Nazareth were aware                  16 of the need to obtain parental consent and efforts were                  17 made to do so.                  18 As to monitoring, you have the evidence of                  19 Sister Anna Maria Doolan as to the approach of                  20 the Sisters of Nazareth at that time. You have the                  21 evidence as to what records -- and they were limited --                  22 were received in response. You also have, and we draw                  23 attention to it, the draft 1952 regulations from the                  24 Home Office which set -- or an intended requirement that                  25 there should be an annual report. So, in effect, the</p> <p style="text-align: center;">Page 97</p>	<p>1 those providing institutional care to children at the                  2 relevant time, and when we refer to institutional care                  3 here, we are referring, of course, to provision of care                  4 by either a local authority or a voluntary organisation.                  5 What follows from that is that an institution would                  6 not necessarily fail in its duty of care if it didn't                  7 meet the highest expectations of how such care should be                  8 provided. There is there the difference between                  9 expectations and aspirations and what standards were                  10 actually being applied.                  11 The inquiry has received a lot of evidence and heard                  12 a great deal about different organisations and their                  13 expectations, so you have the Curtis Report, you have                  14 the Children Act. There's been reference to the 1947                  15 memorandum drafted by the Home Office for the purpose of                  16 Fairbridge. There's the 1951 report of                  17 the Women's Group for Public Welfare and, as I mentioned                  18 a few moments ago, the 1952 draft regulations.                  19 But what we have said is lacking here is evidence                  20 that shows how these expectations were being                  21 implemented; the manner in which children's homes were                  22 inspected. This is in the United Kingdom. The manner                  23 in which homes were inspected, staff recruited and                  24 supervised, and also the time period over which the                  25 changes envisaged in the 1948 Act were to be</p> <p style="text-align: center;">Page 99</p>
<p>1 expectation was that there would be a report on a child                  2 within six months of his or her arrival in the receiving                  3 country and then annually thereafter, and we raise the                  4 question as to whether or how useful such a report would                  5 have been in light of the issues that the panel has to                  6 decide.                  7 The second part of our written submission is devoted                  8 to the seven issues that were identified by                  9 investigation counsel as coming under the scope of                  10 the case study, and I want to just briefly address them                  11 in a slightly different order. The first is the                  12 sufficiency of care issue.                  13 Our understanding was that the common ground between                  14 all parties was that, as an issue, this was to be                  15 determined by reference to the standards and practices                  16 of the day. It is not a question of                  17 the Sisters of Nazareth or other core participants                  18 seeking to hide behind that. That was the position of                  19 investigation counsel, and, as we understood it, it was                  20 the position that the panel had adopted.                  21 It means that -- and we advance the proposition --                  22 the approach should be that, when asking the question,                  23 what are the standards of practice of the day, it should                  24 be answered by reference to what would be accepted by                  25 a responsible body of practitioners, and, in effect,</p> <p style="text-align: center;">Page 98</p>	<p>1 implemented.                  2 Why we say it is important to have an understanding                  3 of the situation in the United Kingdom is because one                  4 refers back to the single paragraph in the Curtis Report                  5 that dealt with child emigration -- 515 -- and where                  6 what you have is this aspiration that a child migrated                  7 to, for example, Australia should go to an institution                  8 that's offering similar care to that being offered in                  9 the United Kingdom.                  10 The second aspect where we say further evidence is                  11 required is in relation to societal attitudes to an                  12 awareness of child sexual abuse. So we must remember,                  13 when we are looking at the first issue, it is about                  14 sufficient care and a failure to protect from sexual                  15 abuse. In order to understand or to put that into                  16 context, one does need evidence about attitudes and                  17 awareness of and an understanding of the prevalence of                  18 child sexual abuse.                  19 It doesn't, for example, necessarily follow that the                  20 attitude and understanding of this issue in Australia                  21 was the same as that in England and Wales over the same                  22 period. This is not evidence that Professors                  23 Constantine and Lynch can assist with. They were                  24 engaged because of their expertise in child migration,                  25 and to give, in effect, historical assessment of that</p> <p style="text-align: center;">Page 100</p>

<p>1 issue. They are not experts in child welfare, they are                  2 not experts in the history of child sexual abuse. That                  3 links to the next issue I want to get on to, and I am                  4 taking them out of order, but it is issue 3, the                  5 constructive knowledge issue.</p> <p>6 When one looks more fully at that, it goes to the                  7 extent to which organisations should have been aware of                  8 allegations or evidence of sexual abuse concerning                  9 children involved in child migration programmes, and it                  10 raises a question of what steps it would have been                  11 reasonable for an organisation to take to inform                  12 themselves of the risk of sexual abuse. But it                  13 presupposes that if such steps had been taken, then the                  14 organisation concerned would have been so aware.</p> <p>15 Once again, we say that that requires determination                  16 of the standards and practices applicable and it                  17 requires evidence of societal attitudes and awareness of                  18 child sexual abuse, and, again, there is an evidential                  19 gap there.</p> <p>20 Looking back at investigating counsel's note on the                  21 standards issue, reference there is made to evidence                  22 about reporting. We would draw your attention to those                  23 1952 draft regulations and the expectation at that time                  24 of the Home Office. Home Office expectations were                  25 something that Professors Constantine and Lynch placed</p> <p style="text-align: center;">Page 101</p>	<p>1 response was appropriate, surely some evidence would be                  2 required about attitudes towards child sexual abuse at                  3 the time.</p> <p>4 That is, for example, because you may recall that                  5 A5's evidence was that she was told not to discuss or                  6 speak of the incident.</p> <p>7 We had, in our submissions, for completeness,                  8 addressed the allegations concerning Brother Conlon's                  9 knowledge, and the position is this: Brother Conlon                  10 comes in 1946 as -- his title was "Migration organiser",                  11 and he is there as the representative of the Australian                  12 Catholic bishops. You received evidence about his                  13 knowledge before 1945 of allegations of sexual abuse                  14 containing Christian Brothers, and that's been mentioned                  15 today.</p> <p>16 The point perhaps to make is that you have the                  17 evidence of Professor Lynch and you have the evidence                  18 from case study number 11 of the Royal Commission, which                  19 shows that the conclusion was that the                  20 Christian Brothers, as an organisation, in its                  21 leadership essentially suppressed disclosure of that                  22 evidence. They kept it -- allegations of sexual abuse                  23 that began in the 1920s and went through to the 1960s                  24 were essentially locked in by the Order.</p> <p>25 We have also made reference and considered the</p> <p style="text-align: center;">Page 103</p>
<p>1 some emphasis on, but that's what they expected: an                  2 annual report.</p> <p>3 The next two issues that I would like to address                  4 briefly are issue 2, actual institutional knowledge, and                  5 issue 4, the response to contemporaneous allegations                  6 issue.</p> <p>7 There is no evidence of a contemporaneous report of                  8 child sexual abuse reaching the Sisters of Nazareth in                  9 England and Wales. We have in our submission addressed                  10 the incident that was recounted to you by CM-A5, who had                  11 been in a Nazareth House in Middlesbrough in 1948, and                  12 the importance of that was because, when one looks at                  13 the documents and one reviews A5's evidence, she                  14 mentioned that the party of which she was a migrant were                  15 accompanied by nuns. The assumption, or our assumption,                  16 is that they are likely to be nuns from the                  17 Sisters of Nazareth.</p> <p>18 You have contemporaneous documentation that set out                  19 who that incident was reported to at the material time.                  20 We make the point that any assessment of                  21 the appropriateness of the response to what happened to                  22 A5 -- one accepts that that response, and we recognise,                  23 would be very different today, but obviously the panel                  24 is concerned with what happened in 1948. But the point                  25 we make is that, in order to assess whether that</p> <p style="text-align: center;">Page 102</p>	<p>1 reference to sexual difficulties. You may remember                  2 that. It appears as a phrase in the confidential                  3 appendix to the Ross Report on Nazareth House,                  4 Camberwell. What we have done is to point to, in                  5 effect, the limited reliance that can be placed on that                  6 phrase as being indicative of sexual abuse.</p> <p>7 Chair, there are three remaining issues that I want                  8 to touch on, and that's the response to recent                  9 allegations issue; the actual support and reparations                  10 issue; and the adequacy of support and reparations.                  11 These have been addressed in the written submissions.                  12 I am not going to go into the detail. The reason                  13 I would like to try to take them as one is because there                  14 is some overlap, in terms of our response.</p> <p>15 What we have done is to append to the submission                  16 a table which begins at page 37, but what it seeks to                  17 set out is the involvement of the Sisters of Nazareth                  18 from the 1990s onwards to issues around child migration.</p> <p>19 The point to make is that we haven't set out there                  20 that involvement that's limited to child sexual abuse.                  21 It may be right to say, and fair to say, that the                  22 response of organisations to issues around child                  23 migration has evolved over time and, when one looks                  24 through the chronology of events, you can see an early                  25 focus and, indeed, at times, a sustained focus on</p> <p style="text-align: center;">Page 104</p>

<p>1 issues, for example, around family tracing and family 2 reunification. 3 Perhaps the most useful thing I can do is to point 4 to perhaps four elements of what might be termed support 5 and reparations. The first is the question of an 6 apology. 7 The apology offered by Sister Anna Maria on Day 13 8 was a genuinely-made one. It was not the first time 9 that the Sisters of Nazareth have made an apology. 10 If one looks at the chronology, they were part of 11 the apology offered to the Senate Inquiry in 2001, as 12 part of the Joint Liaison Group from the 13 Catholic Church. In 2005, as part of the Australian 14 Child Migrant Project, they made an apology. And 15 another apology was made by a senior member of 16 the Sisters of Nazareth at the Historical Institutional 17 Abuse Inquiry. 18 We would invite the panel to read all of those 19 apologies, and perhaps including the one that was made 20 in oral evidence by -- it is Sister Brenda McCall to the 21 inquiry in Northern Ireland. Because we say that does, 22 taken together, reflect a genuine recognition of 23 the consequences of child migration. 24 The second element is family tracing and 25 reunification. The Sisters of Nazareth were part of</p> <p style="text-align: center;">Page 105</p>	<p>1 have supported and funded have provided counselling 2 support, although, when one looks at the document, it is 3 primarily, it appears, in relation to issues around 4 tracing and reunification. 5 The fourth is the question of compensation. 6 As part of the redress schemes that have been 7 offered to former child migrants in Australia, and this 8 is something that's been led by the Australian region of 9 the Sisters of Nazareth, they have participated in 10 migrant mediations. I think the number is 58 migrant 11 mediations. Those have led to financial payments in the 12 overwhelming majority of mediation, and some of those 13 cases did involve an allegation of child sexual abuse. 14 Chair, in conclusion, and on behalf of 15 the Sisters of Nazareth, the organisation appreciates 16 that the remit of this case study is focused on 17 allegations of child sexual abuse insofar as it relates 18 to the child migration programmes, but it does recognise 19 that the impact of child migration is wider than that. 20 No-one listening to the evidence that was heard in 21 part 1 and in part 2 and looking at the documents could 22 fail to appreciate the width of that impact. 23 The Sisters of Nazareth will continue to try to 24 support all former child migrants who have suffered as 25 a consequence of the child migration programmes. Thank</p> <p style="text-align: center;">Page 107</p>
<p>1 the Catholic Council for the Welfare of Children's 2 Australian Child Migrant Subcommittee, which was set up 3 in 1992. One of the initiatives that that subcommittee 4 put in place was the provision of specialised support to 5 former child migrants, it being recognised that, for 6 example, the Sisters of Nazareth and other orders did 7 not have in place the skills to meet the requirements of 8 former child migrants. 9 The Sisters also supported, as I have already 10 mentioned, the Australian Child Migration Project which 11 focused on those who had been in the care of 12 the Sisters of Nazareth and they funded, for example, 13 travel of former child migrants to the United Kingdom. 14 The third element is that of counselling. The 15 Sisters of Nazareth have not been directly involved in 16 the provision of counselling services to former child 17 migrants, including in relation to child sexual abuse. 18 There is a simple reason for that, and that is because 19 the former child migrants with which the organisation in 20 England and Wales have had to deal with have all been 21 people living in Australia, and there are, and were, 22 support systems for them in Australia which the 23 Australian region of the Sisters of Nazareth had been 24 involved in supporting. 25 Here, the services which the Sisters of Nazareth</p> <p style="text-align: center;">Page 106</p>	<p>1 you very much. 2 THE CHAIR: Thank you, Mr Rawat. Can we now move on to 3 Ms Gallafent? 4 MS GALLAFENT: Chair, I'm grateful. I'm looking at the 5 time. I would expect to be half an hour. I'm not sure 6 whether you would prefer to take an adjournment now or 7 for me to break at an appropriate point during the 8 course of my submissions? I am in your hands as to how 9 you would like me to proceed. 10 MS HILL: Chair, if it helps, bearing the mind the time 11 estimates others had given, I think we had anticipated 12 the Catholic Council would make its submissions before 13 the break. Then we will take a break slightly later 14 than usual to allow time for the remaining submissions. 15 THE CHAIR: Yes, that's fine. We will hear your full 16 submission. 17 Closing submissions by MS GALLAFENT 18 MS GALLAFENT: I'm grateful. Good afternoon. The 19 Catholic Council, like other institutions, has provided 20 written submissions. They are, we would say, 21 particularly detailed and, I hesitate to say, 22 particularly lengthy as well. We are, of course, not 23 anticipating that anyone will have had the time to read 24 them in the time available. Those do set out our 25 detailed submissions on each of the seven questions</p> <p style="text-align: center;">Page 108</p>

<p>1 identified by investigation counsel as being relevant to 2 determination in this case study.</p> <p>3 We are in the course of also providing the promised 4 appendices. Two have arrived a matter of moments ago 5 with the inquiry; two are still, I'm afraid, on their 6 way, but I'm going to add to the weight of paperwork 7 that you already have, and I don't, therefore, intend to 8 go through matters in great detail.</p> <p>9 What I do intend to do in the time available is to 10 highlight some of what we say are the particular 11 challenges in this case study, what we say the proper 12 approach is to those challenges and then summarise quite 13 shortly our position on the seven key issues.</p> <p>14 Before doing so, we wish to reiterate the sincere 15 apology made by the Right Reverend Bishop Marcus Stock, 16 the Bishop of Leeds. He apologised to all former child 17 migrants and expressed his sincere regret for the 18 suffering of children, including in many cases as 19 a result of child sexual abuse and the deep wounds which 20 that abuse has left as adults.</p> <p>21 He told the inquiry that if any former child 22 migrant, not only those who have testified before this 23 inquiry, would wish to meet with him privately, he would 24 welcome the opportunity to do so. He made it clear that 25 he appreciates that some may feel this is too little,</p> <p style="text-align: center;">Page 109</p>	<p>1 seven issues that investigation counsel has identified 2 as being relevant for determination. It would be all 3 too easy to fall into the trap of thinking that because 4 an institution has apologised for its role in the child 5 migration programmes, it follows that, inexorably, it 6 failed to take, for example, sufficient care to protect 7 children from sexual abuse in those programmes. That 8 would be a fundamental error. The issues identified by 9 investigation counsel and accepted by the chair are very 10 precise, focused and informed by civil law concepts. It 11 is to those issues that the chair and panel must now 12 direct themselves.</p> <p>13 In doing so, there are, in our submission, two 14 general challenges that the chair and panel face. The 15 first arises from the purpose and scope of the inquiry 16 itself as defined by its terms of reference. Unlike the 17 Historic Institutional Abuse Inquiry in 18 Northern Ireland, the nature of the abuse which this 19 inquiry has been established to consider is expressly 20 limited to child sexual abuse. It does not extend, and 21 there is no mandate for it to extend, to physical or 22 emotional or other types of abuse. We fully recognise 23 the difficulty that there may be in distinguishing 24 between those different types of abuse. But that is 25 a corollary of the terms of reference set by the</p> <p style="text-align: center;">Page 111</p>
<p>1 too late and some may feel they don't wish to have 2 anything further to do with the Catholic Church of 3 England and Wales. He would fully respect those views 4 but he remains open to listening to and learning from 5 them.</p> <p>6 We heard this morning submissions made on behalf of 7 Mr Cosgrove who does not consider Bishop Marcus Stock's 8 apology to be genuine. Can we respectfully suggest he 9 takes up the bishop's offer to speak with him, in order 10 that he might speak privately and reassure himself on 11 that front?</p> <p>12 The Catholic Council has also made it clear on 13 a number of occasions that it and the organisations it 14 represents are committed to learning from the past, 15 taking all appropriate steps to ensuring that in the 16 future children are protected from sexual abuse and 17 exploitation. That will, of course, include learning 18 from the inquiry's report and conclusions in this case 19 study.</p> <p>20 The apology, of course, made by Bishop Stock and 21 previous apologies and expressions of regret are not 22 limited to the issue in this case study. They go to all 23 aspects of child migration, not simply child sexual 24 abuse.</p> <p>25 Those apologies also do not provide an answer to the</p> <p style="text-align: center;">Page 110</p>	<p>1 Secretary of State under the Inquiries Act and cannot 2 simply be ignored.</p> <p>3 In particular, we recognise the difficulty of 4 distinguishing between whether there have been failings 5 in relation to protecting children from sexual abuse and 6 between protecting them from other types of abuse -- 7 physical, emotional, no doubt. That issue, we are sure, 8 will return in a number of future case studies and 9 investigations. But in this case study, it is 10 a particularly acute issue because, as 11 Margaret Humphreys emphasised when she gave evidence in 12 part 1 of this hearing, and as the evidence of many of 13 the former child migrants made clear, it was the loss of 14 family and identity that was the gravest wrong inflicted 15 upon them. In other words, the emotional damage caused 16 by participation in the child migration programmes 17 themselves.</p> <p>18 We recognise and unconditionally apologise for that 19 loss, but that is not the subject matter of this case 20 study.</p> <p>21 The second challenge arises from the fact that this 22 is the first case study to be heard by the chair and 23 panel. It will potentially set the approach for future 24 case studies and other investigatory streams. It hardly 25 needs to be said that it is imperative that the inquiry</p> <p style="text-align: center;">Page 112</p>

<p>1 does not reach any decision or adopt any approach in                  2 this case study that might subsequently undermine                  3 a future case study or investigation.                  4 It is equally vital for continued public confidence                  5 in the inquiry that the panel's report should be                  6 recorded as robust and defensible, based on the adequate                  7 and relevant evidence available to it. It is in that                  8 context that the issue of expert evidence we say is                  9 critical.                  10 Chair, members of the panel, you will recall that                  11 what has come to be referred to as the standards issue                  12 was first raised by the Department of Health shortly                  13 before the preliminary hearing on 9 May, and following                  14 written submissions after that hearing, investigation                  15 counsel, as you have heard from my learned friend                  16 Mr Rawat, provided a note in which they accepted that                  17 the appropriate standard for the inquiry to apply to                  18 a particular issue is the standard that was in place at                  19 the material time.                  20 That standard -- it is sometimes referred to as                  21 a benchmark -- is the prevailing childcare standards and                  22 practices which will include, as the note made clear,                  23 the social mores and the legal framework at the relevant                  24 time.                  25 Pausing there, it is important to emphasise that, in</p> <p style="text-align: center;">Page 113</p>	<p>1 As for how it is proposed that those standards would                  2 be ascertained, investigation counsel indicated in their                  3 note that Professors Constantine and Lynch would provide                  4 evidence on the topic of contemporaneous standards and                  5 practice and whether those standards and practices were                  6 met by the relevant institutions.                  7 It was said that that would include evidence as to                  8 what would be considered to be the expected level of                  9 child-specific reports and institution inspection and                  10 whether those standards were met, which would also go to                  11 the question of constructive knowledge, quite apart from                  12 sufficiency of care.                  13 So the starting point is, it has been accepted by                  14 investigation counsel, and as a result of the chair's                  15 "minded to" decision to accept the approach in that note                  16 by the chair and panel, that expert evidence is required                  17 on the issues of childcare standards and practices,                  18 which include both the legal framework at the time of                  19 the question and the social mores.                  20 Following the chair's indication, we wrote asking                  21 whether there was published research on those issues,                  22 including the underlying issue of what was in fact                  23 societal understanding at the relevant times and the                  24 state of knowledge -- for example, is there a potential                  25 link between physical abuse and sexual abuse? We also</p> <p style="text-align: center;">Page 115</p>
<p>1 referring to the standards of the day, the issue is not                  2 whether or when it was the standard of the day to abuse                  3 children. That is to misunderstand the concept of                  4 standards of the day. That concept concerns the level                  5 of conduct which, as a matter of law, a person or an                  6 institution must measure up to if he or it is not going                  7 to be found liable for damage to another person as                  8 a result of his carelessness, and we have set out the                  9 civil law concepts in relation to duty of care. That,                  10 of course, being the question identified in the terms of                  11 reference, which we say obviously are those that you                  12 should apply here. That is the concept in which                  13 standards come to be relevant. The standard is to act                  14 as a prudent and reasonable person would in the relevant                  15 circumstances.                  16 So when referring to the standards of the day, it is                  17 the standards and the expectations that would inform the                  18 conduct of the prudent and reasonable person in seeking                  19 to protect children from sexual abuse. Now, that is                  20 self-evidently a far more legally and factually complex                  21 question than simply posing that rhetorical question:                  22 when was it ever acceptable under the standards of                  23 the day to abuse children? With respect, we say it                  24 suggests that that is a blind alley that you might be                  25 led down.</p> <p style="text-align: center;">Page 114</p>	<p>1 raised the question of potentially different                  2 understandings in different jurisdictions, in particular                  3 England and Wales or Australia.                  4 Now, apparently in respect to us having raised those                  5 issues, a 17th addendum report was produced by                  6 Professors Constantine and Lynch. Having seen that, we                  7 raised in correspondence a number of concerns about the                  8 extent to which Professors Constantine and Lynch had                  9 been instructed to provide their opinions on matters                  10 beyond their area of expertise. The full communications                  11 are set out in our written submissions. But the short                  12 point is that, as a result, the investigation lawyer and                  13 investigation counsel agreed that the relevant expertise                  14 of Professors Lynch and Constantine is not in childcare.                  15 Therefore, they would not be asked their opinion on,                  16 firstly, what the relevant standards of the day were,                  17 and it follows whether or not a particular institution                  18 had met those standards, nor would they be asked their                  19 opinion on the constructive knowledge issue in relation                  20 to what an institution should have known and why.                  21 So, for example, they were very specifically not                  22 asked about the passage that's now relied upon by                  23 Mr Khan at paragraph 13 of his note because                  24 investigation counsel had accepted that that fell                  25 outside the scope of their expertise, and this creates</p> <p style="text-align: center;">Page 116</p>

<p>1 a real difficulty, chair, for yourself and the panel                  2 members because you need to sift between areas which do                  3 fall within their expertise and areas which don't.                  4 Can I make it clear, so far as the historical                  5 research undertaken by Professors Constantine and Lynch,                  6 we fully accept that the chair and panel have been, and                  7 will be, greatly assisted by the work they have                  8 undertaken on the history of child migration programmes                  9 generally, as have we been. But the difficulty remains                  10 that, as a result of the acceptance of                  11 the delineation -- a very important delineation --                  12 between the area which an expert can properly give                  13 evidence about, and opinion evidence about, and areas                  14 which they cannot, is that there is now no expert                  15 evidence before the chair and panel on those two key                  16 issues: relevant standards of the day or constructive                  17 knowledge.                  18 Of course, we say that in the most recent                  19 correspondence it is implicitly accepted that that                  20 evidence can only be given by a person or persons with                  21 expertise in childcare during the relevant period. We                  22 say it follows that, quite apart from the questions that                  23 arise in relation to the 17th addendum, and we have set                  24 those out in the detail, the chair and panel cannot                  25 properly rely upon any of the views expressed by</p> <p style="text-align: center;">Page 117</p>	<p>1 relevant standards in this country were at the time.                  2 One simply doesn't have, for example, information as to                  3 inspection regimes for either schools or childcare                  4 homes; individual reporting on children; the particular                  5 conditions of the day. One doesn't have that evidence.                  6 So the Curtis Report provides a very stark example                  7 of why one cannot simply go down the route of trying to                  8 reach decisions on sufficiency of care or constructive                  9 knowledge without -- we effectively agree with Mr Rawat                  10 entirely -- a fundamental piece of the jigsaw puzzle                  11 missing.                  12 There is also the question, quite apart from what                  13 the standards were and whether they were met, of                  14 societal mores and understanding. Of course, that is                  15 highly relevant, because when one considers the question                  16 of, "Did you take sufficient care or fulfil your duty of                  17 care?", the panel will be very familiar with the                  18 relevance of the foreseeability of the particular harm                  19 and the likelihood of the risk. Again, we have set it                  20 out in more detail in our submissions.                  21 One needs to understand what the appreciation was of                  22 the risk factors and prevalence of child sexual abuse,                  23 as it is only very relatively recently known, back in                  24 the 1940s and 1950s. It is suggested that this can be                  25 done by way of the historical analysis that was provided</p> <p style="text-align: center;">Page 119</p>
<p>1 Professors Constantine and Lynch earlier in part 2 of                  2 the hearing insofar as they concerned those two key                  3 issues: constructive knowledge and what were the                  4 relevant standards of the day and whether or not                  5 institutions have met them. Because we say that to do                  6 otherwise would somehow be to suggest that, when it                  7 comes to speaking about child migration directly,                  8 Professors Constantine and Lynch are somehow experts in                  9 childcare, but when they are speaking more generally,                  10 they are not experts in childcare. The short answer is,                  11 they are not, and have never purported to be, experts in                  12 childcare, but what we say is that the chair and panel                  13 need to have expert evidence from those with expertise                  14 in childcare to answer these very important questions.                  15 By way of example, in order to assess whether the                  16 Curtis Report established a relevant standard, it would                  17 be necessary to have regard to the standards applicable                  18 in England and Wales, to childcare generally in England                  19 and Wales. Because of course the Curtis Report                  20 recommended that the standard be comparable in                  21 Australian receiving organisations and here.                  22 But Professors Constantine and Lynch, entirely                  23 rightly, have not sought to provide any evidence to the                  24 chair and the panel on that key issue. I'm afraid you                  25 simply don't have the evidence before you as to what the</p> <p style="text-align: center;">Page 118</p>	<p>1 in the 17th addendum report. In our submission, it                  2 would be quite wrong to do that. The CMT have referred                  3 to the criticisms we make of the methodology. We do,                  4 I'm afraid, have real concerns about the methodology                  5 with which the professors approach the question of                  6 societal mores and understanding. There are four                  7 website articles in non-peer-reviewed journals. There                  8 is one publication that's separate.                  9 We say that, at the moment, the chair and the panel                  10 can have no confidence that those articles reflect the                  11 full range of research and learning on the issue, and we                  12 do say that, actually, even within the articles relied                  13 upon, there are key indicators that actually sit very                  14 ill with the views taken by the professors in that                  15 addendum. They just don't match up.                  16 This is of fundamental importance to the inquiry                  17 generally. Future case studies will include allegations                  18 in relation to Rochdale, which date from the 1960s and                  19 the '80s; in relation to the Anglican Church, from the                  20 1970s; Lambeth, from the 1960s to the 80s; and                  21 Nottingham Council, from the 1940s. It would be                  22 profoundly unfortunate if the inquiry were to proceed in                  23 this case study on what currently appears to be an                  24 incomplete basis and it subsequently to transpire that                  25 the position is other than as suggested by Professors</p> <p style="text-align: center;">Page 120</p>

<p>1 Lynch and Constantine on what appears to be an extremely 2 limited review of the available literature. 3 For this reason, we wrote to the investigation 4 lawyer a week ago inviting the inquiry to commission 5 research on the missing pieces of the puzzle. It is 6 important, obviously, not just the criminal regime, 7 legislative regime, that should be understood, but the 8 social welfare regime in this country and, of course, in 9 relation to the development of societal understanding 10 and attitudes from, we suggested, 1930 to date, before 11 hearing submissions from core participants on these two 12 issues, sufficiency of care and constructive knowledge. 13 Now, that invitation wasn't taken up but 14 investigation lawyer indicated that the panel would keep 15 the matter under review, and that if, following the 16 public hearings and closing submissions, it appeared 17 that such expert evidence is required, it would be 18 commissioned, disclosed and observations sought before 19 the inquiry panel reports on this case study. 20 Chair, members of the panel, we urge you to do 21 exactly that. We suggest it would be a disservice to 22 all the core participants in this case study if the 23 inquiry's report were not based on the evidence 24 necessary to enable a properly informed conclusion to be 25 reached. Moreover, it would set a most unfortunate</p> <p style="text-align: center;">Page 121</p>	<p>1 does not, and we say cannot, set a standard. 2 A recommendation is not a standard. 3 The Children Act 1948 reflected a number of 4 the proposals in the Curtis Report, but it only had 5 limited application to voluntary organisations, as 6 Professors Lynch and Constantine pointed out. The key 7 power of the Secretary of State to issue regulations to 8 control the making and carrying out by voluntary 9 organisations of the arrangements for child migration 10 was never actually operated. 11 The Home Office memorandum sent to the 12 Fairbridge Society in 1947. That clearly sets out the 13 Home Office's expectations of what they would like to 14 become standard practice. It didn't, of itself, 15 establish that as standard practice. We note that there 16 is no evidence that this memorandum was ever provided to 17 a Catholic institution in England and Wales involved in 18 child migration. Now, that's something upon which the 19 experts indicated they would be returning. 20 Next chronologically, the 1951 Women's Group on 21 Public Welfare Report. This group was not a statutory 22 group. The report wasn't commissioned by the government 23 or requested by it and its recommendations were not 24 adopted. Equally, we say that can't set the standards. 25 So, too, with the Home Office draft regulations.</p> <p style="text-align: center;">Page 123</p>
<p>1 precedent for other case studies and investigations. 2 Our remaining submissions then are made without 3 prejudice to that position so far as those two issues 4 are concerned. Before I move to those seven points, can 5 I just make one point in relation to the suggestion that 6 the child migration schemes constituted trafficking. We 7 have noted at paragraph 16 of our submissions -- 8 I apologise, there is definitely more than one 9 paragraph 16. We will correct and provide perfected 10 versions, but I'm afraid they were done in something of 11 a rush. At the first paragraph 16, trafficking is 12 a term of art, it is a defined term under the Council of 13 Europe and other international instruments. It is very 14 important not to use this language loosely or import 15 concepts, relatively recently identified concepts, of, 16 for example, trafficking and use that term 17 inappropriately, unless the facts do actually fit those 18 defined terms. We just put that down as, we hope, 19 a helpful marker. 20 So far as the sufficiency of care is concerned, our 21 position is that none of the reports or the documents 22 which have been identified as potentially setting out 23 the standards were in fact standards that bound any of 24 the sending organisations. So the Curtis Report is 25 a series of proposals. It makes a recommendation. It</p> <p style="text-align: center;">Page 122</p>	<p>1 They were at all times draft regulations. They were 2 subject to observations and discussions and, at best, 3 they reflected what the Home Office wished to put into 4 place at the point where the regulations became law, but 5 of course they never did. 6 In considering the sufficiency of care issue through 7 the prism of the civil law concept of duty of care, we 8 make one final point, which is, it is important to 9 emphasise that even where there were regular inspections 10 of institutions in Australia and individual reports 11 received on child migrants, that, regrettably, did not 12 prevent child sexual abuse occurring. In line with 13 those civil law principles applicable to that question 14 of a sufficiency or breach of a duty of care, there can 15 be no relevant breach where the damage was not caused by 16 any failure to meet requisite standards and practices. 17 Let's assume the standard is an annual report on an 18 individual child and an annual inspection. We know, 19 highly regrettably, that that did not prevent child 20 sexual abuse in Australia. 21 We have said slightly less in our submissions on the 22 issues of consent and selection. We agree with and 23 adopt the submissions of Barnardo's and the 24 Sisters of Nazareth on that. We find it difficult to 25 understand how those issues are directly relevant to the</p> <p style="text-align: center;">Page 124</p>

<p>1 seven specific issues identified by investigation                  2 counsel. We can understand why the question of                  3 consented selection may have been more relevant, for                  4 example, in the Northern Irish Inquiry, but of course                  5 those terms of reference are very different.                  6 I will deal, if I may, briefly with actual                  7 institutional knowledge and responses together. Just to                  8 emphasise, in the light of the submissions made by                  9 Mr Khan this morning, the question of the response is                  10 the response by institutions in England and Wales.                  11 A number of his submissions criticised the responses of                  12 Australian institutions, but without making that                  13 distinction clear.                  14 Based on the information available, we understand                  15 that the only allegation during the period in which                  16 there was active child migration of which the Catholic                  17 organisation was aware was CM-A5. I won't repeat the                  18 submissions made by Mr Rawat, who dealt with those, but                  19 the point is made that we -- as Mr Khan points out, we,                  20 as it were, put up a rhetorical question which was, what                  21 more should have been done? Mr Khan says, well, you                  22 should have asked around and seen whether any other                  23 child had equally been abused, presumably on a boat or                  24 by a steward. We say that that precisely emphasises the                  25 difficulty that this inquiry finds itself in, which is,</p> <p style="text-align: center;">Page 125</p>	<p>1 to the CCWC of sexual abuse by a former child migrant in                  2 the context of asking for assistance -- the Australians                  3 were asking for assistance in returning the individual                  4 to England at his request. It is clear from                  5 Canon Flood's response that he didn't consider this as                  6 raising an allegation that required any action by him.                  7 He responded on the question of whether there could be                  8 money made available to return the child to England, or                  9 a 17-year-old by that point. But again, there is a real                  10 difficulty in understanding whether that was                  11 a reasonable response in 1961 or whether, by the                  12 standards and understanding of the time then, the                  13 reasonable prudent person would and should have taken                  14 steps.                  15 But, in any event, what's quite clear from the                  16 letter from Australia is the Australian organisations                  17 had taken action. The former child migrant was then in                  18 a private home. He was subject to oversight as                  19 a result. And he was also -- had been referred for                  20 psychiatric treatment. So he no longer posed a risk to                  21 children who may have remained inhabitants in the                  22 various homes. And of course, we don't know whether                  23 those children were themselves child migrants.                  24 Moving briefly to the constructive institutional                  25 knowledge issue, we respectfully submit that assistance</p> <p style="text-align: center;">Page 127</p>
<p>1 one may well suggest that one should have asked around.                  2 But the real question is, in 1948, would a reasonable                  3 and prudent person have done that? Because unless you                  4 know that that is the practice at the time, that the                  5 reasonable, prudent person, having heard about what                  6 appeared to be an isolated incident on a boat that was                  7 dealt with by the ship's company, should have                  8 immediately thought, "I must now commission                  9 investigations into all crossings in the last two                  10 years", or whatever it may be, we submit respectfully,                  11 we think that is unlikely, but the inquiry simply                  12 doesn't have the evidence upon which it can reach                  13 a properly validated view on, particularly, that issue.                  14 So far as the impact on CM-A5 herself is concerned,                  15 chair and panel, you will recall of course Bishop Stock                  16 evidence's in which he makes it very clear he would very                  17 much hope and expect that no child would ever be left in                  18 that position nowadays and he very much regretted the                  19 trauma of the incident being left with CM-A5 in the way                  20 that it was.                  21 The other contemporaneous allegation, 1961, in fact                  22 falls outside the period when Catholic organisations                  23 were still migrating. It had stopped some five years                  24 earlier. But, technically, the programme was still                  25 ongoing and others were migrating. This was the report</p> <p style="text-align: center;">Page 126</p>	<p>1 is to be derived and was intended to be derived from the                  2 Limitation Act. That is because the term "constructive                  3 knowledge" is most commonly found in relation to the                  4 Limitation Act 1980. Because the definition of                  5 "knowledge" in that Act includes knowledge which                  6 a person might reasonably have been expected to acquire                  7 from facts observable or ascertainable by him. The test                  8 is an objective one.                  9 Can I emphasise the word "facts". For example,                  10 Mr Khan suggests that because members of the Council of                  11 Voluntary Organisations for Child Emigration were, as he                  12 puts it, so closely involved with child migration they                  13 would have known of all those matters relevant to the                  14 issue of child migration, including sexual abuse. We                  15 submit respectfully that is a profoundly wrong approach                  16 to have adopted. It doesn't have, in our submission,                  17 any support, principled or based on any authority known                  18 to us. When considering the question of constructive                  19 knowledge, one has to look at the facts available and                  20 extrapolate from there as to what, based on those facts                  21 observable or ascertainable one should have known.                  22 We do urge more generally -- you will see the points                  23 made in our written submissions -- very particular care                  24 taken to the question of what evidence there is before                  25 the inquiry and what one might speculate about.</p> <p style="text-align: center;">Page 128</p>



<p>1 Tempting as it is to try to put oneself in the shoes of                  2 a person in a meeting in 1947, that isn't the role of                  3 this inquiry or the role of any of us. The question has                  4 to remain, what are the facts and the evidence that is                  5 actually known. Can we urge on the inquiry very                  6 particular attention to that. Particularly when it                  7 comes to the question of constructive knowledge.                  8 Again, I have already made the point, we say there                  9 isn't the relevant expert evidence that will actually                  10 allow you fairly and properly to make a decision on this                  11 point, but, in any event, we have set out in our                  12 submissions why we say that what is said about the state                  13 of knowledge, for example, Bishop Griffin and                  14 Canon Craven, doesn't, we say, on the facts indicate                  15 that there was constructive knowledge of child sexual                  16 abuse. It is not just constructive knowledge of a poor                  17 condition in a particular institution in Australia, it                  18 is constructive knowledge of child sexual abuse.                  19 It became clear obviously in 1956 that previous                  20 state investigations -- or inspections, the                  21 investigations and inspections, and the Moss Reports                  22 were more favourable than that following the                  23 Ross Report.                  24 We say, in the meantime, it was reasonable for                  25 Catholic institutions in England and Wales to have</p> <p style="text-align: center;">Page 129</p>	<p>1 say that is far too remote a way of thinking. One has                  2 to recognise what was actually known. At best, one knew                  3 that some Christian Brothers institutions in this                  4 country were not as good as they ought to have been,                  5 judged by the standards in this country. The                  6 suggestion, without expert evidence, that back in 1949                  7 one then should have thought, "I wonder whether we now                  8 need to be thinking about Christian Brothers                  9 institutions in Australia" we submit is unsupported.                  10 We do, of course, accept -- and Bishop Stock made                  11 this clear -- that the inability of the CCWC between                  12 1951 and 1956 to achieve a system of annual reporting on                  13 individual child migrants, which was their intention                  14 throughout that period, was a significant lost                  15 opportunity.                  16 It cannot, though, we say, properly be suggested                  17 that allegations or evidence of the sexual abuse of                  18 child migrants or the risk of such abuse would have been                  19 reasonably ascertainable, just harking back to the                  20 wording of the Limitation Act for a moment, through the                  21 reporting route, because there is no evidence of any                  22 individual report on any child migrant migrated by any                  23 institution in the relevant period in which it is                  24 suggested that that individual report revealed child                  25 sexual abuse.</p> <p style="text-align: center;">Page 131</p>
<p>1 relied upon the information they were provided with and                  2 made aware of in relation to state inspections and the                  3 Moss Reports which were viewed as being positive.                  4 It is particularly important, in any event, of                  5 course, that the Ross Report did not identify                  6 allegations or evidence of child sexual abuse. There is                  7 no evidence to support any suggestion that Catholic                  8 institutions in England and Wales should have known                  9 about child sexual abuse within the Christian Brothers                  10 Order in Australia. We were asked specific questions on                  11 this point. There simply is nothing to suggest that                  12 Brother Conlon, who was identified as the person aware                  13 of the previous allegations in relation to                  14 Christian Brothers, ever imparted that information to                  15 any of the organisations involved in England and Wales;                  16 far less Father Stinson some years later.                  17 We equally don't accept that isolated concerns about                  18 a Christian Brothers home near Liverpool and, five years                  19 later, a school in Brentwood ought to have put those                  20 individuals involved in that correspondence on notice of                  21 allegations or evidence of child sexual abuse in                  22 Christian Brothers' institutions in Australia. We                  23 simply say there is a series of steps, as it were, to go                  24 down logically to get to the point of thinking that is                  25 constructive knowledge of child sexual abuse. We simply</p> <p style="text-align: center;">Page 130</p>	<p>1 The disparity between the experiences and the                  2 standards recorded in the reports that were available to                  3 Catholic institutions and the evidence from many former                  4 child migrants now reflects this very unfortunate                  5 reality.                  6 We have set out the response to recent allegations                  7 issue. In the time available, I will just highlight, if                  8 I may, some of the key parts, because you will recall                  9 you already have from Ms Hill, as it were, an extensive                  10 reading list on the question of support and reparations.                  11 Bishop Stock's witness statement, the vast majority of                  12 it is taken up with setting out in detail the very large                  13 number of types of support that have been provided over                  14 many years by many organisations within this country                  15 working both internally and also in conjunction with                  16 Australian institutions. I don't intend to say more                  17 than that. They are set out in particular in the                  18 appendices which arrived an hour or so ago.                  19 But in terms of recent allegations, we know that                  20 there are 21 allegations involving the three sending                  21 institutions who are involved in this inquiry and the                  22 CCWC and the Australian Child Migrant Project, which of                  23 course was established by the Bishops' Conference in                  24 England and Wales.                  25 Five of those, of that 21, involve references to</p> <p style="text-align: center;">Page 132</p>

<p>1 sexual abuse that was derived from a third party source,                  2 so, for example, a newspaper report or another agency.                  3 So it wasn't a case of an individual coming to an                  4 institution here and saying, "I was sexually abused".                  5 They were, as it were, one step removed from that. So                  6 the individual concerned was not asking for any support                  7 or assistance in any way from organisations, Catholic                  8 organisations, in England and Wales.                  9 We say there are obviously sensitivities then in the                  10 idea that the institution should have taken it upon                  11 itself to seek to investigate those types of report                  12 which didn't involve the child migrant themselves.                  13 The other 16 reports did involve the child migrants,                  14 but all of those arose in the context of tracing and                  15 origins work of family members. Three concerned                  16 allegations of child sexual abuse whilst in England and                  17 Wales or en route to Australia. One was reported to the                  18 police, two others were notified to the                  19 Sisters of Nazareth in whose care the former child                  20 migrant had been before going to Australia. Just to                  21 emphasise, nowadays, irrespective of the wishes of                  22 the individual, those would of course be reported and                  23 notified to the police.                  24 The difficulty, to repeat the point again, is,                  25 without knowing the particular societal understanding or</p> <p style="text-align: center;">Page 133</p>	<p>1 When it comes to actual support and reparations,                  2 that is, I'm afraid, what you have the reading list from                  3 Bishop Stock to review. We have set that out                  4 extensively and we have summarised it in the appendices.                  5 The point is, perhaps just to make it shortly, in                  6 relation to any question of compensation, there hasn't                  7 been a compensatory scheme established by Catholic                  8 institutions in England and Wales and there have not                  9 been any claims.                  10 To an extent, we are rather behind the curve because                  11 there hasn't, it appears, been any prompt, as might have                  12 been the case if there had been civil proceedings                  13 brought, to consider those issues of compensation. It                  14 might well have been the case that former child migrants                  15 took the view that with group action in Australia and                  16 criminal proceedings being pursued there, there was                  17 little point bringing civil proceedings in this country.                  18 We can only speculate on that, unfortunately, but that                  19 may account for why there has been no consideration                  20 given that we can find in the record for compensation.                  21 But then that comes on to the question of                  22 the adequacy of support and reparations issue, and of                  23 course we do urge the panel and chair to review very                  24 carefully, then, all the steps that were taken in                  25 relation to support, counselling, and family</p> <p style="text-align: center;">Page 135</p>
<p>1 practices at the time, one can't say whether something                  2 that was done in 1992 would be the same as is done in                  3 2017.                  4 In eight of the 16 cases, the allegations had                  5 already been shared with relevant Australian                  6 authorities, and those include CMT and CBERS, the                  7 Christian Brothers organisation, those who provided                  8 services and support to the former child migrant in                  9 those cases, and in three cases steps were taken to                  10 bring the allegations that were made to institutions in                  11 England and Wales to the attention of other relevant                  12 authorities and organisations.                  13 It is difficult, based on the information available                  14 in the case studies, to assess or ascertain with any                  15 great degree of certainty whether the response was                  16 reasonable at the time because quite often the wishes of                  17 the child migrant aren't recorded specifically on the                  18 case file, and we say, in those circumstances, it is                  19 difficult to reach a concluded view, but of course, we                  20 make the general point, which is, all these reports of                  21 child sexual abuse were made in the context of origins                  22 and family tracing and it does not appear that any of                  23 them specifically asked for an allegation to be taken                  24 forward and investigated by England and Wales                  25 organisations.</p> <p style="text-align: center;">Page 134</p>	<p>1 reunification.                  2 We also note the assistance given to other inquiries                  3 and the Royal Commission by -- including Mary Gandy,                  4 Rosemary Keenan and others involved, which has been                  5 extensive over the years. But when it comes to                  6 considering the adequacy of that, the inquiry has                  7 obviously noted in the context of the accountability and                  8 reparations seminars there is no "one size fits all"                  9 answer. That issue is particularly problematic in this                  10 case study because of the interaction, we say, between                  11 support provided in England and Wales and support                  12 provided in Australia.                  13 So, for example, as Mr Rawat pointed out, if                  14 a person did require specific counselling, face-to-face                  15 counselling, then that would almost invariably be done                  16 in Australia because that's where the former child                  17 migrant was still living. So there is necessarily some                  18 split between the types of support that is provided in                  19 England and Wales and Australia, but there is a link                  20 between them because people would be referred by England                  21 and Wales institutions to those in Australia where                  22 relevant. So there is a practical overlap. We say to                  23 ignore that would be quite wrong.                  24 So far as financial reparations are concerned, we                  25 remain of the view that the inquiry should have regard</p> <p style="text-align: center;">Page 136</p>

<p>1 to those schemes and civil proceedings that have been 2 adopted in Australia, including the Federal Redress 3 Scheme that of course is intended to be rolled out next 4 year. 5 The difficulty that we face is that there isn't 6 currently any comprehensive analysis of all the schemes 7 and civil claims. We have done the best we can. We 8 have provided a schedule. In it we have set out what we 9 understand. But we are very conscious that our 10 knowledge may be less than others in the room and may be 11 less than the inquiry's knowledge. So we do suggest it 12 would be appropriate for the inquiry to pull together 13 all the material itself before reaching any conclusion 14 in relation to the adequacy of support and reparations, 15 and obviously we would be happy to assist with 16 observations once we are sure as to whether we have all 17 the relevant material. 18 The third difficulty is the potential complexity of 19 the scheme. Under the inquiry's terms of reference, we 20 say it wouldn't be open to make the sort of 21 recommendation that was made in Northern Ireland 22 because, of course, there is a key difference in the 23 terms of reference. This is limited to child sexual 24 abuse. So whilst we, as I have made clear, entirely 25 understand the difficulty of separating out those</p> <p style="text-align: center;">Page 137</p>	<p>1 welfare needs of the children involved. The Department 2 of Health, on behalf of the government, recognises 3 unequivocally that that was a policy which was wrong, 4 and by "wrong", we mean, of course, fundamentally 5 flawed. That is the starting point. 6 Recognition that the policy of child migration was 7 wrong underpins the government's support of former child 8 migrants, particularly in the build-up to and since the 9 national apology in 2010 and its approach to this 10 inquiry. 11 It is clear that the government did not take 12 appropriate steps to ensure that the standards of care 13 for children who were migrated were comparable to those 14 in this country. In particular, regulations could have 15 been enacted that dealt with the arrangements in the 16 United Kingdom for child migration. Such regulations 17 may have gone some way to first of all lessening the 18 likelihood of abuse being perpetrated, and, secondly, 19 increasing the likelihood of children feeling able to 20 report any abuse at the time. 21 Chair, against that background, you and the panel 22 must not lose sight of the historical context against 23 which the actions and decisions of the government and 24 other institutions should be judged. The events with 25 which this case study is concerned took place in an era</p> <p style="text-align: center;">Page 139</p>
<p>1 issues, it can't be ignored. It has to be recognised 2 that the Secretary of State has limited the mandate of 3 this inquiry. 4 Finally, just in conclusion, we would wish to 5 reiterate that the Catholic Council is fully committed 6 to assisting this inquiry, not only in the course of 7 this case study, and learning from the inquiry's 8 findings and recommendations. We would again wish to 9 pay tribute to those former child migrants who have 10 conducted themselves with such dignity in these 11 proceedings, particularly Mr Cosgrove and Mr Hill, whose 12 commitment to researching the child migration programmes 13 and participating in this and other similar inquiries 14 does them both very considerable credit, in our 15 respectful view. Thank you. I am conscious of 16 the time. I apologise. 17 THE CHAIR: Thank you, Ms Gallafent. We will now take 18 a short break and return at 3.25 pm. 19 (3.20 pm) 20 (A short break) 21 (3.35 pm) 22 Closing submissions by MS LEEK 23 MS LEEK: Thank you, chair. Chair, it is hard to understand 24 today how sending vulnerable young children to the other 25 side of the world could ever have been justified by the</p> <p style="text-align: center;">Page 138</p>	<p>1 when the frameworks for safeguarding children from 2 sexual abuse were far less robust than is the case 3 today, and there was little understanding of the risks 4 of sexual abuse underpinning that framework. 5 Chair, we have set out in lengthy written 6 submissions our positions on standards and the other 7 matters that need to be addressed, so I shall seek to 8 address you relatively briefly whilst on my feet, having 9 regard also to the time of day and that it's been a long 10 day for all. 11 May I start with what is being called by everybody 12 now as "standards". 13 You have had extensive submissions, both in writing 14 and orally, from Mr Ford, Mr Rawat and Ms Gallafent as 15 to the issue of standards. We seek to add only this: 16 prior to the preliminary hearing in May, we asked 17 a number of questions aimed at understanding what 18 standards the inquiry proposed to apply in reaching its 19 findings on sufficiency of care and what evidence, 20 including expert evidence, would be adduced as to those 21 standards. We asked those questions, as we said at the 22 time, in a genuine attempt to clarify the approach that 23 would be taken. 24 The inquiry's answer to the first of these is that 25 the standard that will be applied is that which was</p> <p style="text-align: center;">Page 140</p>

<p>1 applicable at the time. That must be right. The answer                  2 that has been given to the second question is that the                  3 inquiry has sufficient evidence from the experts, the                  4 institutional witnesses and the contemporaneous                  5 documents as to the relevant standards to make findings                  6 on all of the identified issues.                  7 Chair, we recognise that it is particularly                  8 difficult to make findings as to whether sufficient care                  9 was taken to protect children involved in child                  10 migration programmes from sexual abuse when, to be                  11 frank, they should not have been migrated at all.                  12 If the question of sufficiency of care is approached                  13 on the basis that the whole concept of permitting                  14 vulnerable children to be migrated was a failure of                  15 government to protect its children from the many                  16 terrible consequences of migration, including sexual                  17 abuse, and everything flowed from that, then no further                  18 expert evidence on the standards of the time, certainly                  19 relevant to the government's actions, is required.                  20 However, if you decide that it is necessary to make                  21 specific findings as to whether, first of all, the                  22 standards of inspection, monitoring and aftercare were                  23 sufficient to protect children from sexual abuse and the                  24 steps that were taken in response to allegations of                  25 sexual abuse were appropriate, then further expert</p> <p style="text-align: center;">Page 141</p>	<p>1 migration and the roles and responsibilities of                  2 the British Government, the Australian Federal and State                  3 Governments, the sending organisations and the receiving                  4 institutions.                  5 That evidence, together with that of the former                  6 child migrants in part 1, has played a crucial role in                  7 assisting the inquiry and assisting child migrants in                  8 establishing the truth of what happened to the children                  9 who were migrated from the United Kingdom, what was                  10 known by all institutions, including the government, and                  11 what steps were taken in response to that knowledge.                  12 But it is not evidence as to the prevailing                  13 standards of provision, supervision and monitoring of                  14 childcare in England and Wales at the relevant time,                  15 which inevitably changed and developed over the decades.                  16 Such evidence could include factual evidence as to                  17 training, governance and inspection regimes concerning                  18 children's residential care in the UK, and expert                  19 evidence from, for example, a social historian with                  20 relevant expertise. Chair, we set out in our written                  21 submissions examples of the nature of expert evidence                  22 that has been obtained by other inquiries of this                  23 nature.                  24 Turning to evidence of sexual abuse known to the                  25 government and steps taken in response, the question of</p> <p style="text-align: center;">Page 143</p>
<p>1 evidence is required, and that evidence needs to be as                  2 to the standards of provision, supervision and                  3 monitoring of childcare in England and Wales.                  4 You have heard from Ms Gallafent on that issue and                  5 there is little I can add to what she has said, save to                  6 say the inquiry has not yet received expert evidence in                  7 this case study as to the appropriate standards at the                  8 relevant time. May I just give a couple of examples?                  9 If a childcare professional in an institution was                  10 convicted, what steps would the institution reasonably                  11 be expected to take? If the police and institution took                  12 steps, would the Home Office or other government                  13 department also be expected to take steps and what steps                  14 would those be? What sort of monitoring or supervisory                  15 regime was in place? Was the progress of individual                  16 children monitored in this country or assessed? Were                  17 there selection and screening processes for those                  18 working with children?                  19 Chair, we do not ask these questions in any attempt                  20 to suggest that what the government and institutions did                  21 was right, but to assist you in ensuring that a proper                  22 basis has been established for any findings that you may                  23 make.                  24 Professors Constantine and Lynch have been able to                  25 give evidence as to the history and chronology of child</p> <p style="text-align: center;">Page 142</p>	<p>1 what was actually known by the government about sexual                  2 abuse concerning children involved in the child                  3 migration programmes must be approached carefully and                  4 fact specifically. You must not make assumptions.                  5 If less or greater knowledge is assumed than there                  6 is evidence to support, the inquiry's conclusions as to                  7 what should have been known, and therefore as to                  8 sufficiency of care, will be reached on an incorrect                  9 factual basis. May I give you one example? In evidence                  10 on 21 July, Professor Constantine opined that it was                  11 "surprising" that even in the confidential addenda to                  12 the Ross Report there was no reference to sexual abuse,                  13 and I quote, "in light of the flow of information back                  14 to the Home Office about incidents of sexual abuse in                  15 institutions".                  16 Chair, the Ross Report was in 1956. In fact, the                  17 evidence that you have heard and the totality of all of                  18 the disclosed evidence is that, by 1956, the government                  19 had been informed of only two specific instances of                  20 sexual assault: Northcote and Pinjarra; one over                  21 10 years previously and one relating to events 20 years                  22 previously.                  23 Chair, this is not an excuse on behalf of                  24 the government, and we accept entirely what David Hill                  25 said this morning. He said it is not good enough to</p> <p style="text-align: center;">Page 144</p>

<p>1 say, "We didn't know", but we are asked specifically to                  2 address the evidence of what was known at the time, and                  3 we seek to do that in our written submissions.                  4 However widespread the sexual abuse of migrated                  5 children was, and is now known, and accepted by the                  6 government to have been, during the relevant post-war                  7 period, the evidence disclosed to the inquiry reveals                  8 only three separate occasions during that whole period                  9 when officials in government were actually told that                  10 child migrants had been or may have been sexually                  11 abused.                  12 We have set out in detail in our written submissions                  13 the evidence underpinning each of these incidents.                  14 The first, 1944, Northcote Farm Lodge. The relevant                  15 evidence as to the government's knowledge is as follows:                  16 In 1944, a schoolmaster at a school in Victoria,                  17 Australia was prosecuted for having carnal knowledge of                  18 four teenage girls who were resident at Northcote Farm                  19 Lodge. The schoolmaster was acquitted. Mr Garnett of                  20 the UK High Commission was made aware of the nature of                  21 the allegations by May 1944. There is no evidence to                  22 suggest that this was communicated to the Home Office in                  23 London.                  24 What was done in response? Chair, bear in mind that                  25 the schoolmaster was acquitted. As we set out in our</p> <p style="text-align: center;">Page 145</p>	<p>1 the 1930s is the second specific instance of knowledge.                  2 Chair, as you will recall, the evidence as to the                  3 government's knowledge is that a Home Office file from                  4 1949 contains an undated report entitled "Memorandum                  5 submitted by Mr Dallas Paterson on emigration of                  6 children overseas and relating to his own experience as                  7 principal of Fairbridge Farm School at Pinjarra,                  8 Western Australia". That's been referred to as the                  9 Paterson memorandum.                  10 It contains a description of sexual abuse suffered                  11 by a 14-year-old girl at her place of employment                  12 "repeatedly over a long time". This must have happened                  13 between 1936 and 1937 when Mr Paterson was principal at                  14 the school, ie, at least 12 years prior to the 1949                  15 memorandum.                  16 There is no evidence to suggest that it came to the                  17 attention of anyone in government prior to 1949 or that                  18 the Home Office passed it to the Commonwealth Relations                  19 Office or to the UK High Commission.                  20 So far as the response to that is concerned, chair,                  21 the report is contained in the handwritten minutes of                  22 the relevant Home Office file. The minutes do not                  23 address at all the report of the sexual abuse which had                  24 been over ten years previously, as indicated. There is                  25 no indication on the file as to what the subsequent</p> <p style="text-align: center;">Page 147</p>
<p>1 written submissions, the issues that were raised in                  2 respect of Northcote, which included, but were not                  3 limited to, the allegations of sexual abuse described                  4 arose at the same time as concerns about Fairbridge,                  5 Pinjarra which did not include concerns about sexual                  6 abuse, and also about the relationship between                  7 Fairbridge in London and the Australian Committee.                  8 The documentary evidence suggests that the events at                  9 Northcote formed part of the background to the steps                  10 that the government took in the following years in                  11 respect of the child migration schemes to Australia                  12 generally rather than that any specific action was taken                  13 as a result of those events.                  14 On 6 October 1944, Mr Garnett concluded his report                  15 on farm schools in Australia, and he concluded that the                  16 farm school system justified itself by results and                  17 should be continued subject to his recommendations.                  18 In summary, no specific action was taken by the                  19 British Government in response to that allegation.                  20 I will come to the question of what they should have                  21 done in due course, but bear in mind that the alleged                  22 perpetrator was actually acquitted, and bear in mind                  23 what steps might be expected to be taken, even today, in                  24 the face of an acquittal.                  25 The 1949 report of abuse at Fairbridge, Pinjarra in</p> <p style="text-align: center;">Page 146</p>	<p>1 discussions entailed, although you may consider it                  2 likely that he was referring to discussions more                  3 generally with Fairbridge in the post-war period and you                  4 may not find it surprising that no action was taken in                  5 relation to a matter that had happened overseas some                  6 12 years previously.                  7 The third instance which was specifically brought to                  8 the attention of the government is that relating to                  9 Dr Barnardo's Home at Picton in 1958. My learned friend                  10 Mr Ford has set out some of the detail relating to that,                  11 but so far as the government is concerned, they were                  12 informed that residents at Picton had been or were                  13 suspected to have been sexually abused. By                  14 24 July 1958, the UK High Commission had been told that                  15 all but one of the perpetrators intended to plead                  16 guilty, and that was communicated to the CRO in a letter                  17 dated 8 August 1958.                  18 The evidence as to what the government did in                  19 response to the allegation is as follows, that on                  20 11 July it was decided that approval would not be given                  21 for any further applications for the time being.                  22 In August, the High Commission was notified that the                  23 Minister for Immigration had lifted the ban on the                  24 introduction of further parties of children to                  25 Dr Barnardo's Homes in Australia and, on 23 October,</p> <p style="text-align: center;">Page 148</p>

<p>1 a Mr Lucette of Barnardo's reported to the Home Office 2 and the CRO that everyone who worked for Dr Barnardo's 3 in Australia had been screened by the police, that 4 investigations had been conducted by the police and the 5 local welfare authorities, which all revealed that 6 "the infection no longer existed" and Mr Lucette's view 7 was that Picton should be closed down. 8 It was not until 21 November 1958 that the CRO 9 informed Dr Barnardo's that the minister had approved 10 the resumption of their migration arrangements. 11 I turn now to the appropriateness of the steps 12 taken, and may I urge the panel, when reaching its 13 conclusions, to look at each allegation which came to 14 the attention of the government, which part of 15 the government, how it was dealt with and then look at 16 the appropriateness of the steps taken in relation to 17 each single incident. 18 The inquiry must have regard, in reaching 19 conclusions on these issues, as to what would have been 20 a reasonable standard or practice for the UK Government 21 in 1944 for Northcote, 1949 for Pinjarra and 1958 for 22 Picton for dealing with allegations that teachers or 23 individuals providing childcare had sexually abused 24 children. It is to be noted that the same standard will 25 not necessarily apply in each decade.</p> <p style="text-align: center;">Page 149</p>	<p>1 withdraw all funding to the school, as is being 2 suggested? Would the reasonable response be to stop 3 sending children to the school or to the residential 4 home? Those are the types of questions which must be 5 asked when judging the appropriateness of the steps 6 taken but by reference to the standards at the time. 7 Pinjarra. The allegations, as I have said, related 8 to events which had taken place over a decade 9 previously. In the intervening period, the Home Office 10 had been in discussion with the CRO about the 11 suitability of Pinjarra to receive a further party of 12 children, and with Fairbridge generally, about the 13 standards of care expected. What would the government, 14 as opposed to the school, or the police, or the local 15 authority, be expected to do? Or what would be 16 reasonable in those circumstances in relation to 17 allegations of a crime at a residential home some 18 12 years previously? What could the government do, in 19 fact? 20 The third is Picton. The Commonwealth Relations 21 Office maintained its suspension of approval of any 22 Barnardo's institution until around three months after 23 the Australian Immigration Department had lifted its 24 ban. The suspension was lifted only after the CRO and 25 the Home Office had met with Mr Lucette and satisfied</p> <p style="text-align: center;">Page 151</p>
<p>1 We have set out in our written submissions, and you 2 have heard discussion this afternoon, about the 3 limitations that you are faced with on the evidence 4 currently before you. However, notwithstanding those 5 limitations, we invite you to have regard to a number of 6 observations in relation to each incident when you 7 consider the appropriateness of the steps taken in 8 response to each allegation of sexual abuse. These 9 should not in any way be taken to detract from the 10 government's acceptance that child migration itself was 11 unacceptable and that regulations which may have 12 lessened the likelihood of sexual abuse or increased the 13 likelihood of reporting it were not implemented. 14 First of all, Northcote. There is no evidence that 15 the Home Office was notified of the allegations. At the 16 time, during the war, child migration had been suspended 17 and the Home Office was not providing the 18 Dominions Office with advice on approval of homes. 19 Ask yourselves the question: what would have been 20 a reasonable response to an acquittal of a schoolmaster 21 in this country in the 1940s; indeed, until the 22 requirement to disclose information on CRB or DBS 23 checks? And that is notwithstanding the fact that you 24 need evidence of the requirements at the time. 25 Would the response, the reasonable response, be to</p> <p style="text-align: center;">Page 150</p>	<p>1 themselves as to the changes that they had been aware of 2 or were in contemplation. 3 Chair, before I conclude that issue, may I say our 4 observations in relation to those three incidents are 5 made not with the intention of shirking responsibility, 6 but to assist the inquiry panel to get the findings 7 right in relation to the responses and the standards of 8 the day in relation to the questions that the panel has 9 set itself for the purposes of this particular strand of 10 the inquiry. 11 Before I come to constructive institutional 12 knowledge, may I highlight the danger of generalisation, 13 assumption and decision making in the absence of 14 satisfactory expert evidence, again, with the intention 15 of assisting the panel to get it right. I have already 16 mentioned the issue relating to the surprise about the 17 content of the Ross Report. Chair, in their opening 18 statement, and in Ms Weeraratne's closing, the CMT have 19 asserted that the Canadian experience made it clear that 20 there were risks of, inter alia, sexual abuse. I want 21 to highlight briefly to the panel the importance of 22 approaching with caution generalised assertions of this 23 nature. The expressions I draw your attention to are, 24 first of all, "the Canadian experience"; secondly, "made 25 it clear"; and, thirdly, "risks of sexual abuse".</p> <p style="text-align: center;">Page 152</p>

<p>1 What was "the Canadian experience"? What did it 2 "make clear"? To whom did it "make clear"? And what 3 were the risks of sexual abuse that are said to be 4 "clear"?</p> <p>5 The Doyle Report of 1875 included a range of 6 criticisms about migration practices. The totality of 7 any evidence within it which could even vaguely be 8 inferred to refer to sexual abuse -- and that is reading 9 between the lines -- is at page 24, a reference to 10 a girl "losing her character". There is no mention of, 11 or warnings about, sexual abuse.</p> <p>12 I ask rhetorically, what does "losing her character" 13 mean by the standards of 1875?</p> <p>14 Secondly, Barnardo's documents disclosed the 15 conviction in 1889 of a manager of a receiving home for 16 the sexual abuse of girls. There is no evidence that 17 this was brought to the attention of the government.</p> <p>18 Thirdly, the Bondfield Report of 1924, concerning 19 Canadian homes, did not contain any reference explicitly 20 or impliedly to sexual abuse.</p> <p>21 Fourthly, there is correspondence between Mr Logan, 22 the principal of Prince of Wales Fairbridge Farm School 23 and Fairbridge in London concerning the dismissal of 24 the duty master for serious and gross misconduct with 25 "one of our boys". There is no evidence that either the</p> <p style="text-align: center;">Page 153</p>	<p>1 institution separately. What did that institution know 2 and what did that institution pass on to the government? 3 One simply cannot pin knowledge that one institution has 4 to others and say, "Well, they ought to have known about 5 it".</p> <p>6 The question is, what did the Canadian experience 7 make known about sexual abuse generally and the risk of 8 sexual abuse of children? Because, in fact, what we are 9 talking about is two convictions over a period of 10 50 years.</p> <p>11 What should have been known about the risk of sexual 12 abuse, constructive institutional knowledge? May we 13 preface our submissions by saying that assertions in 14 statements or submissions by core participants or by 15 witnesses as to what would have been known, or should 16 have been known, do not constitute evidence, let alone 17 satisfactory expert evidence, as to the relevant 18 standard.</p> <p>19 We know from Professors Constantine and Lynch that 20 there is a lack of reference in the contemporaneous 21 documentation to the need to protect children from the 22 risk of sexual abuse, so was the risk understood but 23 just not talked about or addressed or covered up, or was 24 the risk, the widespread risk, simply not understood at 25 the time. These are important issues with which the</p> <p style="text-align: center;">Page 155</p>
<p>1 dismissal or the circumstances of that dismissal were 2 brought to the attention of anyone within government.</p> <p>3 Fifthly, correspondence between Mr Logan and 4 Sir Charles Hambro concerning the dismissal and 5 conviction of Mr Rogers, also a duty master at the 6 Prince of Wales Fairbridge Farm School, for immoral 7 relations with three boys. Again, there is no evidence 8 before the inquiry to suggest that the conviction of 9 Mr Rogers was brought to the attention of 10 the government.</p> <p>11 Finally, there is also a report written in 1944 by 12 Isobel Harvey, which the panel heard about, who was 13 British Columbia's superintendent of child welfare, and 14 that was in August 1944. That report on the study of 15 Fairbridge Farm School referred to the Rogers case, 16 described a duties master who had a name for fooling 17 around with the girls and who allegedly abused one, 18 relationships to the boys and girls and homosexual 19 activities. There is no evidence before the inquiry to 20 suggest that Isobel Harvey's report was brought to the 21 attention of the government.</p> <p>22 What can we take from this? What was the Canadian 23 experience? A bald assertion that the Canadian 24 experience made it clear that there were risks of sexual 25 abuse cannot be sustained. One needs to look at each</p> <p style="text-align: center;">Page 154</p>	<p>1 panel will have to grapple in reaching its conclusions.</p> <p>2 As we say in our submission, the modern 3 understanding of the pervasive risk of sexual abuse 4 should not be attributed without a sound evidential 5 basis to those in government over the period of 6 the operation of the child migration programmes. As 7 a society, we know now that children are at risk of 8 being sexually abused in any context, whether in their 9 own homes, boarding schools, institutional care, foster 10 care, hospitals or in religious or sporting settings.</p> <p>11 The risk comes from the whole spectrum of society, from 12 influential and professional individuals, to parents, 13 step-parents, foster parents, teachers, medical 14 professionals and those who should be treated as 15 vulnerable individuals.</p> <p>16 Legislation at the time criminalised offences with 17 children. There were convictions for child sex 18 offences. That forms but a small part of the picture. 19 It does not help in understanding what was known 20 generally at the time of the child migration programmes 21 about the risks of sexual abuse and whether, for 22 example, more was known in the '60s than the '50s and 23 more was known in the '50s than the '40s.</p> <p>24 It is impossible to say what would have been seen or 25 reported in any inspection or whether, had children been</p> <p style="text-align: center;">Page 156</p>

<p>1 spoken to more frequently, they would have reported 2 sexual abuse.</p> <p>3 Chair, coming back to the evidence, as we have said 4 in our written submissions, there were three cases where 5 allegations of sexual abuse of child migrants were 6 actually brought to the attention of the government. 7 Those reports were made over a period of decades and 8 related to incidents in three separate institutions. 9 They do not, of themselves, provide a sufficient 10 evidential basis for making a finding that the 11 government had constructive knowledge that child 12 migrants were at wide risk of sexual abuse generally.</p> <p>13 As to the sufficiency of steps taken by the 14 government to protect child migrants from sexual abuse, 15 as we say in our written submissions, we now know and 16 accept that there was sexual abuse of children involved 17 in the child migration programmes as reported by 18 numerous child migrants both outside and within this 19 inquiry. The abuse was vastly more widespread than was 20 reported at the time.</p> <p>21 The extent to which there were failings by those in 22 government to protect children from sexual abuse must be 23 judged against the circumstances in which they were 24 operating and the standards of the day.</p> <p>25 As Mark Davies suggested, the inability to draw up</p> <p style="text-align: center;">Page 157</p>	<p>1 In 2007, the CMT sought to deliver a three-year plan 2 to provide tracing and reunion services and post-reunion 3 support. In 2010, following the national apology, the 4 CMT reported an ongoing need for its services, including 5 provision of personal and family counselling, family 6 research and facilitating family reunions. And the 7 level of funding increased significantly after the 8 Select Committee reported in 1998, also in the build-up 9 to the national apology and in the aftermath of it. The 10 total funding to date has been £7,392,000.</p> <p>11 That support has been available to all child 12 migrants rather than specifically for individuals who 13 suffered sexual abuse. As the chronology set out in our 14 paper shows, the support has been tailored and developed 15 to reflect what the government was told by the Child 16 Migrants Trust was most important over the years to 17 child migrants.</p> <p>18 Those priorities have inevitably and understandably 19 changed over time. The fact that there has been no 20 ring-fenced provision for child migrants who were the 21 victims of sexual abuse reflects what the Department of 22 Health was told was actually required. It does not in 23 any way indicate that anyone in government has sought to 24 downplay or minimise the issue of sexual abuse.</p> <p>25 As to the adequacy of support and reparations, the</p> <p style="text-align: center;">Page 159</p>
<p>1 enforceable regulations serves to highlight why the 2 child migration programmes should have been terminated 3 sooner than they actually were.</p> <p>4 What is not known, and cannot be known, is what 5 precise steps would have been sufficient to prevent the 6 abuse.</p> <p>7 May I turn briefly -- I have one eye on the clock 8 here -- to the support and reparations offered to 9 individuals who suffered sexual abuse relating to their 10 inclusion in the child migration programmes. Mr Davies 11 has given detailed evidence of the support the 12 government has provided to child migrants, the events 13 that led to the government's apology in 2010 and the 14 terms of the apology. We have set that out in detail in 15 our written submission.</p> <p>16 Mr Davies himself has worked incredibly hard and 17 very closely with the Child Migrants Trust to assist 18 them in obtaining the funding that they need.</p> <p>19 Chair, given the time, I simply draw the panel's 20 attention to the totality of the Department of Health's 21 disclosure and Mr Davies' evidence in particular in this 22 regard.</p> <p>23 As you will be aware from that, the focus of 24 the services provided to the Child Migrants Trust has 25 evolved and developed over time.</p> <p style="text-align: center;">Page 158</p>	<p>1 history of the government's support for child migrants 2 and its understanding of what that support should entail 3 serves to demonstrate the very complexity of these 4 issues. We have suggested in our written paper, as 5 Ms Gallafent has suggested also this morning, that the 6 inquiry would be assisted in considering its 7 recommendations as to support and reparations by 8 a comprehensive understanding of what has been provided 9 to date by each institution and the state and national 10 governments. A report or a schedule should be prepared 11 by the inquiry team showing, first, what redress has 12 been paid; second, the basis upon which it was paid; 13 third, what services have been provided; and, fourth, 14 the terms of apology that have been made.</p> <p>15 That will form the basis of an understanding of 16 the extent to which there is a shortfall in the 17 reparations and support provided to date and inform the 18 inquiry panel's consideration of questions such as 19 double recovery and payment for the same thing by 20 numerous institutions, how the institutions can work 21 together going forwards.</p> <p>22 May I conclude by saying, on behalf of 23 the government, that the government once again wishes to 24 acknowledge and apologise for the great suffering caused 25 by the underlying policy of child migration. This</p> <p style="text-align: center;">Page 160</p>



<p>1 inquiry has heard first hand from some of those affected                  2 who have shown great courage and dignity in the way they                  3 have come forward and given their accounts. It is to be                  4 hoped that the inquiry, by exploring and exposing the                  5 failures in the systems that should have protected them                  6 better, has provided some measure of comfort to former                  7 child migrants.                  8 Chair, the government will await the findings of                  9 the inquiry and carefully consider all the                  10 recommendations that it makes. Thank you.                  11 THE CHAIR: Thank you, Ms Leek. Ms Hill, I understand we                  12 need to overrun the time, since we are running behind.                  13 MS HILL: Chair, I will do the best I can. I know that the                  14 inquiry intends to conclude proceedings at 4.30.                  15 It does fall to me to now briefly, I think,                  16 reiterate the issues and summarise, as best I can, in                  17 the time available, some of the evidence you have heard.                  18 Closing submissions by MS HILL                  19 MS HILL: Chair, you do have a detailed written document                  20 prepared by the inquiry team and I won't go through it                  21 in huge detail. But perhaps, just as my learned friends                  22 have done, I will flag some of the issues for you and                  23 your colleagues' consideration.                  24 I won't reiterate the broad issues. They have been                  25 ventilated on many occasions by my learned friends. But</p> <p style="text-align: center;">Page 161</p>	<p>1 difficulties they have endured because of their                  2 childhood experiences. Chair, you will recollect that                  3 we have sought to follow up that part 1 witness evidence                  4 by recently providing you with a table of additional                  5 accounts of sexual abuse that the inquiry has received                  6 that we hope gives you an even broader context from                  7 which to make your findings.                  8 You, of course, heard during the part 1 hearings                  9 from Dr Humphreys about her role in bringing the child                  10 migrants issue to public attention and her understanding                  11 of the experience of child migrants. You heard expert                  12 evidence about the structure and operation of the child                  13 migration programmes and the role of the various central                  14 and local government bodies and of voluntary                  15 institutions.                  16 Of course, the experts concluded the part 1 hearings                  17 by reminding you of what previous inquiries and reports                  18 have found about the child migration programmes and gave                  19 you an overview of the available expert evidence --                  20 available evidence, forgive me, in respect of sexual                  21 abuse of child migrants that had already been found.                  22 In these part 2 hearings, chair, you of course heard                  23 further expert evidence at the beginning of the part 2                  24 hearings about the issues around consent and selection.                  25 The experts sought to explain what they understood was</p> <p style="text-align: center;">Page 163</p>
<p>1 broadly, of course, you and the panel are considering                  2 issues around sufficiency of care, around knowledge,                  3 around response, and around support and reparations.                  4 We have set out for you at paragraphs 3 and onwards                  5 in our note a reminder of some of the part 1 evidence,                  6 because it is of course important to recollect the                  7 evidence that you heard earlier this year, and you will                  8 recollect, chair, that the experts provided a broad                  9 context for you during those part 1 hearings. They                  10 dealt there with the development and funding of                  11 the schemes, the criticisms and decline of the schemes                  12 and, importantly, you heard evidence from a large number                  13 of former child migrants, including Oliver Cosgrove and                  14 David Hill. We hope that that material, chair, gave you                  15 a sense of the experiences of former child migrants and                  16 of the nature of the allegations of sexual abuse that                  17 have been made.                  18 You heard some evidence from those witnesses about                  19 concerns around consent, concerns around selection, and                  20 about inspections. Many of those child migrant                  21 witnesses gave evidence to the effect that they were                  22 either unaware of inspections when they took place or,                  23 if they were aware of them, they took a limited part in                  24 them.                  25 Many of course described the long-lasting</p> <p style="text-align: center;">Page 162</p>	<p>1 expected in terms of selection and consent and how                  2 particular institutions approach those issues. That                  3 material may give you an insight into the care that                  4 those institutions took over the children in a very                  5 general sense.                  6 You heard more detailed evidence about the systems                  7 for aftercare and supervision that were established, and                  8 that may assist you in understanding the means by which                  9 England-and-Wales-based institutions considered that                  10 they could be satisfied as to the welfare of                  11 the children overseas.                  12 The experts then provided you, on the second day of                  13 the part 2 hearings, with an overview of their views on                  14 the care, knowledge and response issues in relation to                  15 several of the institutions. As you have heard, chair,                  16 several of the core participants today, to varying                  17 degrees -- the Catholic Council, the Government, the                  18 Sisters of Nazareth and Barnardo's -- have suggested                  19 that there is insufficient evidence available to the                  20 panel to make proper findings on the issue of what                  21 a reasonable institution would have done at the time of                  22 the migration programmes to protect children from sexual                  23 abuse; whether the institutions did indeed take                  24 sufficient care to protect children from abuse; whether                  25 they did or should have had knowledge of the risk of</p> <p style="text-align: center;">Page 164</p>

<p>1 sexual abuse of child migrants; and whether, if there                  2 was any actual knowledge as to the adequacy of                  3 the contemporaneous response, others, such as the Child                  4 Migrants Trust and Oliver Cosgrove disagree. And you                  5 will have seen appended to the Child Migrants Trust's                  6 submissions a table where they set out what standards                  7 they say can be determined from the evidence and whether                  8 or not they were complied with.</p> <p>9 Chair, you will need to consider all those                  10 submissions carefully. You will recall specifically                  11 that, prior to the adducing of evidence from the                  12 17th addendum, particular limits were placed by us on                  13 the evidence to be provided by the experts on that day.                  14 It was accepted that the experts were not going to give,                  15 in relation to that report, their opinion on standards                  16 or on constructive knowledge issues. You will need to                  17 determine whether or not there is sufficient material to                  18 answer all of those issues that derive from the case                  19 study scope. You will need to consider whether you do                  20 consider further evidence is appropriate, be that expert                  21 evidence or, indeed, more evidence on the support and                  22 reparations issues, as to some degree my learned friends                  23 have suggested.</p> <p>24 You will need to approach all of that evidence,                  25 chair, and apply the appropriate weight to all of it,</p> <p style="text-align: center;">Page 165</p>	<p>1 Prince of Wales school in British Columbia, evidence of                  2 allegations of sexual abuse at Pinjarra and Molong and                  3 Northcote, and you have seen and heard the evidence                  4 about communications between England and Wales,                  5 Fairbridge and Australia.</p> <p>6 You will recollect the evidence about the dismissals                  7 and departures of some duties masters in Canada and                  8 principals at Molong and Northcote, the involvement of                  9 the police, the State Child Welfare Department and other                  10 authorities, and you will recollect evidence about the                  11 allegation of sexual abuse of a child migrant on the                  12 journey to Australia. You will need to approach all                  13 that evidence and, if you can, make appropriate findings                  14 on whether Fairbridge did take sufficient care to                  15 protect those children from sexual abuse, whether it had                  16 actual or constructive knowledge and, if it did have any                  17 knowledge, whether the response was appropriate.</p> <p>18 You have also heard evidence, chair, about the                  19 recent response by Fairbridge to allegations, in                  20 particular you will recollect the evidence from                  21 Mr Haynes and Mr Woods as well as David Hill. Mr Hill                  22 in particular has alleged that there has been                  23 a defensive response by Fairbridge with an emphasis on                  24 protecting the institution's reputation at the expense                  25 of transparency. You have also heard evidence from</p> <p style="text-align: center;">Page 167</p>
<p>1 including the expert material that you have heard. You                  2 should approach all of the observations that I make here                  3 and after about the different institutions with those                  4 considerations in mind.</p> <p>5 I should add that they also apply to the arguments                  6 advanced by the Catholic Council about the adequacy of                  7 support and reparations. They have clearly made                  8 submissions about those issues as well.</p> <p>9 What we have tried to do in our note, chair, is set                  10 out for you a very brief summary of the evidence in                  11 relation to each of the institutions about which you                  12 have heard, because of course not all of those                  13 institutions are core participants, so it is perhaps                  14 appropriate for us simply to remind you in brief form                  15 that you heard about Fairbridge. You heard                  16 a significant amount of oral evidence about Fairbridge                  17 from the experts but also from Nigel Haynes, from                  18 David Hill and Dame Martina Milburn from the                  19 Prince's Trust. You also had written evidence read to                  20 you. We have set out for you in our note the evidence                  21 that you will recall about the monitoring of children by                  22 Fairbridge, about the recruitment and supervision of                  23 staff, and the communications between the sending                  24 society and the receiving institutions.</p> <p>25 You heard evidence about particular instances at the</p> <p style="text-align: center;">Page 166</p>	<p>1 Mr Hill about the extent to which Fairbridge had tried                  2 to distance itself from organisational responsibility                  3 for institutions in Australia, and you will need to                  4 consider whether it is justified to make those                  5 suggestions.</p> <p>6 Finally, on support and reparations, you will recall                  7 the evidence that Fairbridge and the Prince's Trust have                  8 provided access to the archive, albeit there is some                  9 evidence about Fairbridge putting limits on that.                  10 Neither have provided compensation or assisted with                  11 aftercare or counselling, albeit that Fairbridge                  12 Australia had settled a civil action. You will recall                  13 David Hill's evidence on this issue and his proposals                  14 about a redress scheme and you will recollect the                  15 apologies given by Dame Martina and Mr Haynes, and you                  16 will need to consider all of that evidence in assessing                  17 the adequacy of support and reparations provided by                  18 Fairbridge.</p> <p>19 Chair, we have set out in some detail the evidence                  20 in respect of Barnardos, but I won't summarise that                  21 here, given that you have already heard from my learned                  22 friends about it. Similarly, in relation to the                  23 Sisters of Nazareth, you have heard submissions already                  24 from their counsel. I will perhaps then simply remind                  25 you, as the foot of page 6 does, about the evidence from</p> <p style="text-align: center;">Page 168</p>

<p>1 the Royal Over-Seas League.                  2 You will recollect expert evidence and evidence from                  3 Major General Roderick Porter in relation to the League,                  4 issues about the League being questioned initially about                  5 its expertise to provide reports on welfare of                  6 the children and its approval nevertheless to migrate                  7 children.                  8 You heard evidence, of course, about the lack of                  9 records that the League had as to its activities and its                  10 evidence about a lack of contemporaneous knowledge. The                  11 League has not been approached with allegations of                  12 sexual abuse and does not have a policy on responses to                  13 allegations and has not offered compensation. You will                  14 need to consider whether that approach is adequate.                  15 In relation to the Children's Society, you heard                  16 evidence, as we say at paragraph 40, from the experts                  17 and from Matthew Reed, who explained the numbers of                  18 children migrated and the systems that were put in                  19 place. You heard evidence of his apology and about the                  20 periodic reports on children who had been migrated. You                  21 heard evidence about their policy on aftercare and their                  22 initial reluctance to be involved in the scheme in                  23 circumstances where the aftercare facilities were not                  24 clear.                  25 You heard witness evidence from him that they had no</p> <p style="text-align: center;">Page 169</p>	<p>1 from Mr Cordery about the apology that has been made.                  2 For Father Hudson's, you heard from Mr Andrew Quinn                  3 who explained in evidence about the understanding he had                  4 of the monitoring of the children, which the experts                  5 referred to as being toward the more minimal end of                  6 the range of monitoring systems that they had seen, and                  7 the lack of clarity as to which organisation was                  8 responsible for migrating and supervising children in                  9 some cases.                  10 You will reflect on all of that evidence, in                  11 particular on the evidence about supervision and                  12 oversight, and you must determine with that institution,                  13 as with all the others, if you can, whether sufficient                  14 care was taken for those children.                  15 You will recollect Mr Quinn's evidence about the                  16 Origins service and the various other provisions that                  17 are now in place. You will also recollect the 1961                  18 correspondence that was explored through his evidence                  19 and has been the subject of submissions already.                  20 As far as the Catholic Church is concerned, you have                  21 heard, and have received, very lengthy written                  22 submissions, and just a very brief summary of some of                  23 the points by us. So I won't go over those in any                  24 detail. You will of course focus your mind on what the                  25 issues are and what the proper findings that can be made</p> <p style="text-align: center;">Page 171</p>
<p>1 actual or constructive knowledge of child sexual abuse                  2 and you had his evidence about how more recent                  3 allegations have been responded to and the range of                  4 professional services that they offer.                  5 Similarly, chair, in relation to the National                  6 Children's Home you heard evidence from Deanna Neilson                  7 and from the experts about the numbers of children that                  8 organisation migrated. You will recollect evidence                  9 about their seven basic principles relating to the care                  10 of children.                  11 You heard witness evidence from them about their                  12 involvement in the migration programmes and how that was                  13 relatively limited in terms of time.                  14 You also heard evidence about the recent allegations                  15 that they have received and how they have responded, and                  16 about the support in terms of tracing and counselling                  17 that they have provided.                  18 Cornwall County Council's evidence was largely from                  19 Jack Cordery and from the experts. Again, you heard                  20 evidence from them about the lack, it was said, of clear                  21 policies or systems to ensure that the children were                  22 properly cared for and followed up. You will recollect                  23 the evidence about what was described as an ad hoc                  24 reporting system through Fairbridge via the Cornwall                  25 County Council's children's officer. You heard evidence</p> <p style="text-align: center;">Page 170</p>	<p>1 on those issues are. I have summarised for you,                  2 reminded you, perhaps, here in the note, of the various                  3 witness statements that were read and the various                  4 witnesses from whom you heard.                  5 Similarly, chair, in relation to the government                  6 evidence, that will be fresh in your mind, having just                  7 heard my learned friend's submissions, so I won't                  8 summarise that in any detail, but it is there for you in                  9 our written note.                  10 You heard evidence in relation to the support and                  11 reparations issues by the government, of course, as                  12 well, from written evidence from Sir John Major and oral                  13 evidence from Gordon Brown, as well as evidence from                  14 Dr Humphreys and Mr Johnston, who gave their view on the                  15 adequacy of the government's support and reparations                  16 programmes.                  17 You heard some evidence from the experts about                  18 The Salvation Army, which we summarised for you in the                  19 note, and you shortly will be provided with some limited                  20 expert evidence on the role of the Church of England                  21 Council for Empire Settlement.                  22 You have received some high-level evidence about                  23 overseas support and reparation that we summarise for                  24 you towards the end of the note, but if you agree with                  25 the submissions made that more material is needed on</p> <p style="text-align: center;">Page 172</p>

<p>1 this, then of course that is something that you can 2 direct be provided. 3 So, chair, that brings the evidence in closing 4 submissions in the case study to a conclusion. It is, 5 as you know, not your role to make findings of fact 6 about any individual allegations of sexual abuse, but 7 you will need to consider all of the evidence and 8 address as best you can the issues of the sufficiency of 9 care taken to protect child migrants from sexual abuse, 10 the extent of institutional knowledge of sexual abuse, 11 the institutional responses to both contemporaneous and 12 recent allegations of abuse and the support and 13 reparations provided, and make appropriate findings and 14 recommendations based on that evidence and in the light 15 of the submissions you have received. Chair, unless 16 I can assist you further, that is a brief summary of 17 the points in our note. 18 THE CHAIR: Thank you very much, Ms Hill. You have been 19 admirably brief. Thank you. 20 As Ms Hill has indicated, that concludes the public 21 hearings in the case study on child migration 22 programmes. We are grateful to all of the witnesses who 23 have come to testify before the inquiry during the 24 part 1 and part 2 hearings, namely, the former child 25 migrants, the institutional witnesses and the experts</p> <p style="text-align: center;">Page 173</p>	<p>1 2 Closing submissions by MR FORD .....81 3 4 Closing submissions by MR RAWAT .....91 5 6 Closing submissions by MS GALLAFENT .....108 7 8 Closing submissions by MS LEEK .....138 9 10 Closing submissions by MS HILL .....161 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 175</p>
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<p>1 from whom we have heard. 2 We would like to extend our thanks to all of 3 the legal representatives, and to Mr David Hill, for 4 their assistance and to all of the inquiry staff for 5 making sure of the smooth progress of the hearings. 6 We, as a panel, will now review the material 7 provided to us and provide a report on this case study 8 and we hope to be able to publish this report by the end 9 of this year. So thank you very much to everyone for 10 your attendance today, and this hearing is now 11 concluded. Thank you. 12 (4.30 pm) 13 (The hearing concluded) 14 15 I N D E X 16 17 Welcome by THE CHAIR .....1 18 19 Housekeeping .....2 20 21 Closing submissions by MS WEERERATNE .....7 22 23 Closing submissions by MR HILL .....31 24 25 Closing submissions by MR KHAN .....42</p> <p style="text-align: center;">Page 174</p>	
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