

<p>1 Monday, 27 November 2017 2 (10.30 am) 3 Welcome by THE CHAIR 4 THE CHAIR: Good morning, everyone. I am Alexis Jay and 5 I am chair of the Independent Inquiry into Child Sexual 6 Abuse. With me are the other panel members of 7 the inquiry, Ivor Frank, Professor Sir Malcolm Evans and 8 Drusilla Sharpling. 9 On behalf of the inquiry, I want to welcome you all 10 to the first day of the substantive hearing on the 11 Roman Catholic Church investigation, focusing on the 12 English Benedictine Congregation. 13 This hearing will run for 15 days, with one 14 non-sitting day, finishing on Friday, 15 December 2017. 15 The investigation into the Roman Catholic Church and 16 this case study related to the English Benedictine 17 Congregation is a part of the inquiry's wider 18 investigation into institutional failures in connection 19 with the abuse of children in England and Wales. 20 This is the first hearing in this investigation and 21 the third public hearing during which the inquiry will 22 hear live or read evidence from complainants about their 23 experiences of sexual abuse. 24 As you all know, the task of the chair and panel of 25 the inquiry is to examine the extent to which public and</p> <p style="text-align: center;">Page 1</p>	<p>1 have encountered as a result of your experiences as 2 children. I want to assure you of the high priority 3 that we and the inquiry place on this investigation and 4 on hearing of your experiences. 5 Leading counsel to the inquiry, Riel Karmy-Jones QC, 6 will, in a moment, introduce the core participants and, 7 where appropriate, their representatives. 8 Before she does so, some points on the arrangements 9 for the hearing: we will sit each day from 10.30 am. 10 Ordinarily, we will take a 15-minute break at around 11 11.45 am. On days when we are sitting early, we may 12 take an earlier break during the morning. We will break 13 for lunch at 1.00 pm, returning at 2.00 pm. We intend 14 to sit until between 4.00 pm and 4.30 pm each day. 15 By way of an agenda, we rely on the hearing 16 timetable, which sets out the order in which witnesses 17 will be called. 18 The hearing transcript is recorded simultaneously on 19 screens throughout the room and will be published at the 20 end of each day on the inquiry website. Any directions 21 arising from the day's hearing will also be published on 22 the website. 23 There are anonymity arrangements in place for the 24 complainant core participants who will be giving 25 evidence in week 1 and week 2 of the hearing. Ciphering</p> <p style="text-align: center;">Page 3</p>
<p>1 private institutions in England and Wales have failed to 2 protect children from sexual abuse in the past and for 3 us to make meaningful recommendations to keep children 4 safe today and in the future, and the definition of 5 scope of this case study is published on the inquiry 6 website. 7 The inquiry's broader programme of work was 8 published in its December 2016 report. The hearing in 9 this investigation follows the completion of 10 the hearings in July of this year in the case studies on 11 child migration programmes and, in October, into 12 Cambridge House, Knowl View and Rochdale. These are to 13 be followed in January by a hearing on the internet 14 investigation and, in March of next year, by hearings in 15 the investigation into the Anglican Church. These are 16 part of a full timetable of substantive hearings and 17 seminars in a number of the inquiry's investigations 18 which continue to be held in 2018 and into 2019. 19 To all of the core participants and their legal 20 teams, we thank you for your hard work in preparation 21 for this hearing. To the complainant CPs who will give 22 evidence before the inquiry during this hearing, and to 23 those of you who have given written testimony, we are 24 grateful to you for coming forward to bear witness. 25 We are conscious of the challenges that many of you</p> <p style="text-align: center;">Page 2</p>	<p>1 and redactions have also been used in relation to the 2 evidence in accordance with the inquiry's redaction 3 protocol and restriction order, both of which are 4 available on the website. If there is any inadvertent 5 breach of a restriction order, I will ask that the 6 simultaneous recording be stopped momentarily so that 7 the issue can be addressed as appropriate. 8 Finally, there are a large number of core 9 participants taking part in this hearing. In order to 10 avoid confusion, I will be asking those core 11 participants who wish to make submissions to do so in 12 the order set out by Ms Karmy-Jones in her introductory 13 comments. 14 I will now invite Ms Karmy-Jones to address the 15 panel. Please go ahead. 16 Opening statement by MS KARMY-JONES 17 MS KARMY-JONES: Thank you, chair, members of the panel. 18 I appear today together with my learned junior 19 Lois Williams, who is junior counsel for this case 20 study. We have also, in the course of preparation, been 21 greatly assisted by Jelia Sane, Ellen Shaw and 22 Kate Beattie, also junior counsel. 23 May I introduce the legal representatives for the 24 core participants present today. Mr O'Donnell appears 25 together with Mr Scorer on behalf of A43 and A54, A64 to</p> <p style="text-align: center;">Page 4</p>

1 A66, A69, A70, A72 and A75, and Jonathan West.
 2 Sam Stein appears together with Mr Enright on behalf
 3 of F13, represented by Howe & Co Solicitors.
 4 Ms Gallagher QC appears on behalf of D2.
 5 Mr Greenwood appears on behalf of C18 and C19.
 6 Dominic Ruck Keene on behalf of G1, G3, G4 and G6
 7 and White Flowers Alba.
 8 I believe Ms Ellis, who represents G2, may submit
 9 something in writing for the purposes of today.
 10 Mr Kelly QC represents Ampleforth Abbey Trust.
 11 Ms Gallafent QC represents both Downside Abbey and
 12 the English Benedictine Congregation and the
 13 Catholic Council for this inquiry.
 14 Alan Payne appears on behalf of the North Yorkshire
 15 Police.
 16 Ms Griffiths QC appears on behalf of Adrian Child
 17 and Eileen Shearer.
 18 Lord Alex Carlile -- I'm not sure whether he is in
 19 fact present today -- as you know, represents Ealing
 20 Abbey and St Benedicts School.
 21 Mr Dixey, on behalf of the Metropolitan Police
 22 Service.
 23 Ms McGahey QC on behalf of the Secretary of State
 24 for education.
 25 Ms McKimm and Ms Wigzell on behalf of

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1 the Independent Schools Inspectorate.
 2 Ms Simor QC and Ms McCallum on behalf of Ofsted.
 3 Chair, members of the panel, there may be some
 4 preliminary issues to deal with this morning. However,
 5 the only matter that has been brought to our attention
 6 is one that relates to an issue around disclosure.
 7 We have been aware that some core participants wish
 8 to make submissions around late disclosure of material,
 9 and I understand that those submissions will be made by
 10 Mr Stein QC.
 11 May I say at the outset that we recognise, on behalf
 12 of the inquiry, that there has been late disclosure for
 13 this hearing, and that some material yet remains to
 14 come.
 15 However, there is good reason for much of those
 16 difficulties that have arisen and no-one here, as
 17 I understand it, suggests that these proceedings should
 18 be adjourned.
 19 We have been given no notice of any such application
 20 and, in the absence of that, you may wish to press on to
 21 opening submissions to ensure that all are concluded by
 22 the end of today, bearing in mind there is a great deal
 23 of work to be done today and tomorrow, and so may wish
 24 to invite those submissions to be made in full at the
 25 end of today.

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1 I understand that Mr Stein does agree with that
 2 proposal, but would like to address you just for
 3 a moment and in a line or two now.
 4 MR STEIN: Madam, that's right. We have discussed matters,
 5 and without there being an application to adjourn or add
 6 more time or take it out a little further into the year,
 7 what we are suggesting that we do, both counsel to the
 8 inquiry and all of us that represent the survivor core
 9 participants, is that we deal with this at the end of
 10 the day.
 11 But may I say, what we should not do is park it, in
 12 other words, delay the delayed discussion, to a point
 13 whereby it is when everybody is going out the door. Can
 14 we make sure, please, that we have clear air time so
 15 that we can look at this issue? We know how important
 16 disclosure is. We know how difficult it is to deal with
 17 from the core participants' basis. Can we make sure we
 18 actually grasp this issue at the end of the day and give
 19 it proper time? That's all I want to say at the moment
 20 and we will get back to it a little later. Thank you.
 21 THE CHAIR: Thank you, Mr Stein.
 22 MS KARMY-JONES: Thank you. In those circumstances, and in
 23 the absence of any other preliminary submissions, may
 24 I proceed to open the case on behalf of counsel to the
 25 inquiry.

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1 Opening submissions by MS KARMY-JONES
 2 MS KARMY-JONES: This case may best be summarised by quoting
 3 for a moment from Lord Nolan from his Review in 2001,
 4 when he said:
 5 "Child abuse is a great evil. All abuse can leave
 6 scars on victims and their families. It is particularly
 7 abhorrent when people in a position of trust and
 8 responsibility abuse a child. It is more abhorrent when
 9 that position of trust is that of a member of the clergy
 10 or a lay church worker."
 11 So he said in 2001.
 12 This is the first of the substantive hearings in the
 13 inquiry's investigation concerning the Roman Catholic
 14 Church and we anticipate that it will run for three
 15 weeks and will conclude on 15 December.
 16 The investigation into the Roman Catholic Church is
 17 wide ranging and it focuses broadly on four main themes.
 18 First, the prevalence of child sexual abuse within the
 19 Catholic Church; secondly, the adequacy of the Catholic
 20 church's policies and practices in relation to
 21 safeguarding and child protection; thirdly, the extent
 22 to which the culture of the Catholic Church has or does
 23 inhibit the proper investigation and prevention of child
 24 sexual abuse; and, fourthly, the adequacy of previous
 25 reviews of safeguarding arrangements, including that

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<p>1 which I have quoted, the Nolan Review, but not limited 2 to that, including the Cumberlege Commission and 3 including the extent to which the recommendations of 4 those inquiries were implemented in policy and practice 5 by the Catholic Church.</p> <p>6 The hearing that we are about to embark upon is the 7 first part of the inquiry into the English Benedictine 8 Congregation and it will seek to explore the extent to 9 which that Congregation has taken seriously its 10 responsibility to safeguard children and to protect them 11 from sexual abuse.</p> <p>12 This hearing, which is part 1 of 2, will focus on 13 two institutions: Ampleforth and Downside and their 14 associated schools. Part 2, to be heard at a later 15 date, will examine Ealing Abbey and St Benedict's 16 School, and possibly also Worth Abbey and School.</p> <p>17 By way of overview, there has, over the last 18 50 years or more, been a great deal of disclosure and 19 reportage of sexual abuse alleged to have been committed 20 by members of the English Benedictine Congregation and 21 by teachers at their associated educational 22 institutions.</p> <p>23 Those allegations that have been recorded go back 24 many years, at least to the 1960s, and they continue 25 into the present day. In considering the evidence and</p> <p style="text-align: center;">Page 9</p>	<p>1 understandable that many may have been unable to move on 2 and that they continue to seek justice and, if not 3 justice, at least an explanation of how these things 4 were allowed to happen and an assurance that every step 5 will be taken to prevent them from happening again.</p> <p>6 To that end, there have in the last 25 years been 7 a number of investigations and Reviews into the 8 arrangements for child protection and the prevention of 9 abuse in the Catholic Church in England and Wales. 10 Amongst these, to set background and context to the 11 evidence you will hear, in 1994, the Catholic Bishops' 12 Conference received a working party report called 13 "Child Abuse: Pastoral and Procedural Guidelines".</p> <p>14 In 1996, another Church working party produced 15 a report on victims and survivors called "Healing the 16 Wound of Child Sexual Abuse".</p> <p>17 Lord Nolan's first report was published at Easter 18 2001 for the Bishops' Conference that year, and it 19 contained 50 recommendations.</p> <p>20 His final report, "A Programme for Action", was 21 published in September 2001 and it amplified upon the 22 first. Failings were identified. Amongst those that 23 were noted as prevalent within the Catholic Church were: 24 the failure to recognise the extent and prevalence of 25 abuse; the failure to scrutinise rigorously candidates</p> <p style="text-align: center;">Page 11</p>
<p>1 assessing the extent of abuse, it must be remembered 2 that we have to rely on that which has been reported and 3 the extent and accuracy with which those reports have 4 been recorded, if at all. In that time, the last 50 or 5 so years, we have moved from scant records being kept, 6 little more than handwritten notes on scraps of paper, 7 to electronic, computerised record keeping. So some of 8 the records that remain are inevitably old, illegible, 9 some are incomplete, some have been lost or destroyed.</p> <p>10 Many of the people who kept the records and made the 11 decisions as to how allegations were dealt with are now 12 deceased or elderly or infirm or both. Some who made 13 the allegations have, too, sadly passed away. Some who 14 have been accused have long since died and have escaped 15 further investigation and, if appropriate, prosecution.</p> <p>16 In order to understand the evidence to come, a table 17 setting out the history of legislation and guidance is 18 in bundles that you will be provided with at your 19 tab A1. It should be noted that that document is 20 a working document and additions may be made during the 21 course of this hearing.</p> <p>22 But we must not forget, although time has passed, 23 that many of the lives of individuals have been blighted 24 forever by the abuse that they suffered at the hands of 25 those they were meant to have been able to trust. It is</p> <p style="text-align: center;">Page 10</p>	<p>1 for the priesthood; the failure to communicate 2 suspicions or even proof of misconduct; and the failures 3 to heed such communications when made; all of which, it 4 was concluded, stemmed from an ignorance of the nature 5 of paedophilia.</p> <p>6 The final report contained 83 recommendations which 7 were, at least in theory, largely and enthusiastically 8 accepted by the church.</p> <p>9 Just briefly looking at the first three of these, it 10 was recommended that the Catholic Church should be an 11 example of the best practice in the prevention of 12 child abuse and responding to it. The top priority was 13 said to be that preventative policies and practices 14 should operate effectively in parishes, dioceses and 15 religious orders so as to minimise the opportunity for 16 abuse. The whole Church in England and Wales, the 17 individual bishops and religious superiors, it was said, 18 should commit themselves to a single set of policies, 19 principles and practices based on the Paramountcy 20 Principle, which, as you know, states that the welfare 21 of the child should be the paramount consideration in 22 all decision making, and the 13 principles of "Safe from 23 Harm" and the revised "Working Together" Department of 24 Education publication was commended.</p> <p>25 Chair, members of the panel, you will need to</p> <p style="text-align: center;">Page 12</p>

<p>1 consider how well these and other recommendations made 2 in 2001 were in fact implemented in the 16 years since. 3 The Cumberlege Commission review was carried out in 4 2006 to 2007, and its report "Safeguarding with 5 Confidence" was published in July 2007. That review 6 concluded that 79 of Lord Nolan's recommendations had 7 been addressed, either completely or partially, but 8 found that although progress had been made, the task was 9 very far from done. The implementation process had been 10 flawed, it found, and had exposed a number of deeply 11 felt tensions within the church and its associated 12 organisations. 13 It was observed in that report that the successful 14 implementation of the child protection policies depended 15 on engaging hearts and minds from the leadership down to 16 grass roots, clergy and laity alike. And it seems to 17 have been acknowledged that there was some way to go in 18 this regard, some religious leaders having argued to the 19 Cumberlege Commission that such policies had been only 20 tolerated rather than embraced, some saying that they 21 lacked any sound theological and spiritual context and 22 that the language they use is not that of the church, 23 one even having said that such policies appeared 24 "foreign, bureaucratic and even irrelevant". 25 Of these comments, the report said this:</p> <p style="text-align: center;">Page 13</p>	<p>1 Prevention of Sexual Abuse of Children and Vulnerable 2 Adults), that those bodies and others like them were 3 sufficient and in part also because of a lack of 4 willingness to train and to be trained. 5 Concerns were expressed that bishops and 6 congregational leaders may be minimising the distressing 7 consequences and the harmful anguish that follows in the 8 wake of child abuse, and that the resistance to change, 9 the fear of suspicion that the authority of 10 the leadership was being undermined, that those things 11 had impeded the delivery of consistently good 12 safeguarding arrangements. 13 The Cumberlege Commission made 72 recommendations, 14 the first of which was that the Conference of Bishops 15 and the Conference of Religious should publicly declare 16 and renew their affirmation to the "One Church" approach 17 and to safeguarding. 18 Chair, you and the members of the panel may wish to 19 consider during the course of this hearing whether those 20 comments were in fact taken on board and acted upon and 21 whether any improvement was in fact made. 22 Turning to the two institutions upon which this 23 hearing will focus, Ampleforth and Downside, I will not 24 summarise every allegation here. What we have been able 25 to glean from the material disclosed, the reports made,</p> <p style="text-align: center;">Page 15</p>
<p>1 "... there exists a misguided interpretation that 2 sees [the unequivocal adoption of the Paramountcy 3 Principle] as a means of protecting the church and its 4 leaders at the expense of the accused, especially where 5 the accused is also a priest." 6 It also observed that religious congregations were 7 a late addition to the diocesan-led thinking and 8 recommendations underpinning the Nolan Review and that 9 five years on, in 2007, they remained so. Because of 10 the number and diversity of such congregations and 11 communities, the "One Church" approach brought 12 a particular challenge and that, although efforts had 13 been made for the various conferences to come together, 14 there was not much visible evidence that the 15 collaborative leadership had been sustained, that the 16 uptake of the national policies amongst the religious 17 was "hugely variable" and in some instances "slower and 18 more grudging". 19 The Cumberlege Report stressed that success would 20 depend on the church at every level taking ownership of 21 the safeguarding agenda but described the will to do 22 this as "patchy", saying that in part this was because 23 of a growing confidence or complacency that the 24 post-Nolan establishment of bodies to oversee 25 safeguarding (COPCA -- the Catholic Office for the</p> <p style="text-align: center;">Page 14</p>	<p>1 the records that have been kept in respect of 2 Ampleforth, has been summarised into tables that appear 3 in bundles you will be provided with at your tabs B5 and 4 C1. These are working documents and may be amended as 5 we proceed. Similar bundles will be provided in respect 6 of Downside when we reach that evidence in a week and 7 a half or so. 8 Some of the perpetrators at both institutions have 9 been convicted and incarcerated. All in this room will 10 have heard of the cases of Piers Grant Ferris, 11 David Lowe, Dara De Cogan at Ampleforth, and 12 Nicholas White and Desmond O'Keefe at Downside. I am 13 going to briefly, very briefly, outline those cases to 14 give a sense, a flavour, of the matters that you will be 15 considering. 16 Ampleforth had conducted an internal investigation 17 into Father Piers Grant Ferris in 1975 following 18 allegations having been made against him by a number of 19 pupils. The abuse that he had inflicted on boys over 20 the years in many instances had begun with beatings, 21 often for no reason at all, which would begin with 22 smacking to the bare bottoms, often progressing in 23 severity, often with the child, sometimes as young as 7 24 or 8, made to get completely undressed and to take up 25 different poses, no doubt for his gratification. Rather</p> <p style="text-align: center;">Page 16</p>

<p>1 than taking boys to see Matron when they were ill, or 2 indeed even when they were not, he often undertook 3 medical examinations of them himself, including taking 4 their temperature, which he chose to do anally. 5 There was an investigation in 1975 within the 6 institution led by Father Justin Caldwell, 7 Father Patrick Barry and Abbot Hume, all now deceased. 8 They took it upon themselves to interview the pupils and 9 others, none of whom disclosed suffering or witnessing 10 any abuse. Although, at that stage, Grant Ferris 11 admitted pulling back foreskins of two of the boys, he 12 denied any sexual gratification and it appeared that 13 Abbot Hume did not believe all the allegations that had 14 been made and that he took great steps to ensure that 15 Piers Grant Ferris's reputation remained intact. These 16 concerns to preserve Grant Ferris's good name may in 17 part have been because of the Abbey's association with 18 his family, who, it seemed, provided some financial 19 support to the Abbey. 20 Piers Grant Ferris was, in the '70s, assessed by 21 a Dr Spencer, who found that he did pose a risk to 22 children, this on the basis that Grant Ferris admitted 23 to the doctor that he did get some sexual gratification 24 from spanking pupils. Abbot Hume conceded then that he 25 was unsuitable to continue working with children and</p> <p style="text-align: center;">Page 17</p>	<p>1 wrong. 2 Many months passed and the relationship between 3 Timothy Wright and Elizabeth and Ruth Mann deteriorated 4 as both psychologists pressed for the removal of 5 Piers Grant Ferris. Their advice continued to be 6 ignored and finally they reported the matter. Police 7 became involved and Operation Ellipse, a police 8 operation that set out to investigate allegations of 9 child sexual abuse at Ampleforth was born. You will 10 hear evidence about this later this week. But one of 11 the matters of concern appears to have been that when 12 police searched Piers Grant Ferris's room, they found 13 that he had possession of his own private file which 14 contained the Abbey's notes and records from the 1975 15 investigation, apparently given to him in case the 16 police came to the monastery with a warrant to search 17 the abbot's room. 18 On 16 May 2005, Piers Grant Ferris finally admitted 19 his guilt, pleading guilty to 21 counts of sexual 20 assault. He was sentenced on 26 January 2006 to two 21 years imprisonment. You will be hearing from some of 22 his victims during the course of the evidence. 23 Very briefly, and crossing the years, David Lowe was 24 convicted in February 2015 of a number of allegations 25 dating back to the 1980s, committed both at Westminster</p> <p style="text-align: center;">Page 19</p>
<p>1 Piers Grant Ferris was removed from the school and 2 transferred to Workington parish, where the parish 3 priest was made aware of the issues. 4 But further allegations were made in 1995, but by 5 then Abbot Patrick Barry's view was that these were 6 unfounded and/or malicious, a view that seems to have 7 been shared by Dr Spencer who briefly reassessed 8 Piers Grant Ferris about 20 years later and recommended 9 that he be allowed to stay at Ampleforth where he had 10 returned in the interim. 11 The next abbot, Timothy Wright, had post Nolan begun 12 a working relationship with a psychologist, 13 Dr Elizabeth Mann. On her recommendation in 2001 he 14 commissioned her daughter, Dr Ruth Mann, also 15 a psychologist, to carry out a further assessment of 16 Piers Grant Ferris. Ruth Mann profoundly disagreed with 17 the previous findings of Dr Spencer and was firmly of 18 the view that Grant Ferris was a danger to children. 19 She expressed grave concern that he had not only been 20 allowed to return to the monastery, but given work there 21 in the tuckshop, together with another convicted abuser, 22 Gregory Carroll. She asked that both be immediately 23 removed. It is plain that Abbot Wright did not agree 24 with Ruth Mann and, indeed, he sought a second opinion 25 from Dr Spencer, who suggested that Ruth Mann must be</p> <p style="text-align: center;">Page 18</p>	<p>1 Cathedral School and Ampleforth where he had gone on to 2 teach after leaving his former post at Westminster. He 3 was charged with 15 counts of indecent assault on boys 4 under 14 years of age in 2014. He pleaded not guilty 5 but was convicted by a jury on all counts and sentenced 6 to 10 years' imprisonment. 7 Dara De Cogan, who was a teacher at Ampleforth 8 College, and who, on the pretext of tutoring a young 9 female pupil late into the evening, groomed and sexually 10 abused her between 2007 and 2010. The abuse took place 11 on school grounds and in school rooms late at night. He 12 would, during the day, find opportunities to push her 13 against a wall and insert his fingers into her vagina. 14 He tied her up, he masturbated over her. There was oral 15 and anal penetration. It seems that the abuse of that 16 victim, A30, was wholly premeditated as emails were 17 found that went back to when she had just joined the 18 school at the age of 13, in which he suggested that she 19 had inappropriate feelings for him. This was 20 a pre-emptive move that paved the way for his abusing 21 her later. 22 It was reported to the police in April 2016, and you 23 will hear evidence from A30, his victim, who reported 24 the matter as an adult in 2016. Dara De Cogan pleaded 25 guilty to ten counts in February 2017 and was sentenced</p> <p style="text-align: center;">Page 20</p>

<p>1 to 28 months' imprisonment.</p> <p>2 At Downside there was Nicholas Richard White,</p> <p>3 against whom allegations were made of sexual abuse</p> <p>4 committed in the 1980s, at least some of which had been</p> <p>5 disclosed to the abbot at the time. But this was not</p> <p>6 reported to the police by the abbey. There was media</p> <p>7 coverage in 1989 when the News of the World ran an</p> <p>8 exposure story. Nicholas White was sent off to a number</p> <p>9 of other monasteries, including, in 1993, to</p> <p>10 Fort Augustus, where he remained until 1999 when he</p> <p>11 returned to Downside. Although there was some police</p> <p>12 enquiry, it was not until 2010 that matters were fully</p> <p>13 investigated, when documentation in respect of</p> <p>14 the historical allegations was found at Downside, some</p> <p>15 of which had not previously been shared with the</p> <p>16 statutory authorities. Attempts to identify the victims</p> <p>17 followed, as did a prosecution, which resulted in</p> <p>18 convictions, for which he was sentenced in January 2012</p> <p>19 to five years' imprisonment. You will be hearing from</p> <p>20 one of his victims during the course of this hearing.</p> <p>21 Also, Desmond O'Keefe, convicted of a Public Order</p> <p>22 Act offence in 2003. The facts of the offence, in very</p> <p>23 short summary, are that he was seen masturbating in</p> <p>24 a vehicle parked on the street outside a primary school</p> <p>25 at going-home time when children were leaving the school</p> <p style="text-align: center;">Page 21</p>	<p>1 moved to another location apparently to appease parents</p> <p>2 or to avoid scandal, but without appropriate</p> <p>3 safeguarding measures in place; where abusers were</p> <p>4 allowed to remain in their posts; and some allowed to</p> <p>5 return to the abbey, where they continued to have</p> <p>6 contact with children and other vulnerable individuals;</p> <p>7 sometimes it being thought, rightly or wrongly, that</p> <p>8 greater control could be exerted over them there.</p> <p>9 It may be that during the course of evidence and the</p> <p>10 submissions to come there is some acceptance of</p> <p>11 failings, but reliance will be placed on changes that</p> <p>12 have been made over the years. But as you will hear,</p> <p>13 concerns remain and you are likely to hear evidence that</p> <p>14 suggests safeguarding problems are still ongoing, in</p> <p>15 some instances, and with the inevitable result that</p> <p>16 children may remain at risk.</p> <p>17 Turning to the hearing itself, the scope for this</p> <p>18 hearing has been referred to in a number of</p> <p>19 the preliminary hearings that there have been, and it is</p> <p>20 published on the IICSA website as a guide and, in</p> <p>21 applying that scope, we will over the next three weeks</p> <p>22 introduce evidence on the following topics, broadly.</p> <p>23 An overview of the structure and organisation of</p> <p>24 the Roman Catholic Church in order to set the English</p> <p>25 Benedictine Congregation into context, including an</p> <p style="text-align: center;">Page 23</p>
<p>1 with their mothers. For this, he received a conditional</p> <p>2 discharge. A year later, in 2004, he was convicted of</p> <p>3 offences arising out of his having collected child</p> <p>4 pornography and in some instances superimposed the faces</p> <p>5 of children attending the school upon the indecent</p> <p>6 images. He was sentenced to 18 months' imprisonment and</p> <p>7 subsequently laicized in 2006.</p> <p>8 The allegations made against the individuals at both</p> <p>9 institutions demonstrate a wide spectrum of behaviour,</p> <p>10 spanning from: excessive physical chastisement,</p> <p>11 sometimes apparently for sexual gratification;</p> <p>12 voyeuristic beatings where children had been made to</p> <p>13 strip and to bend over so as to expose their naked</p> <p>14 bottoms for the sexual delectation of the person</p> <p>15 inflicting the punishment; grooming; fondling of</p> <p>16 genitalia; oral, anal and vaginal penetration; buggery</p> <p>17 and rape.</p> <p>18 During the course of this hearing, you are likely to</p> <p>19 hear of occasions where it appeared that victims did not</p> <p>20 want to report the allegations; reports were ignored;</p> <p>21 steps were taken to apply pressure to families not to</p> <p>22 report allegations; where families themselves did not</p> <p>23 want reports to be made, perhaps due to misguided ideas</p> <p>24 of where the child's best interests lay; where police</p> <p>25 were not informed or involved; where known abusers were</p> <p style="text-align: center;">Page 22</p>	<p>1 explanation of the central English Benedictine</p> <p>2 Congregation, its structures, the office of</p> <p>3 Abbot President, and its relationship with its</p> <p>4 affiliated abbeys and schools.</p> <p>5 The role of the central bodies within the English</p> <p>6 Benedictine Congregation in England and Wales,</p> <p>7 particularly those who deal with child protection, and</p> <p>8 some aspects of Canon law will also be a topic that we</p> <p>9 look at.</p> <p>10 The duty of schools in respect of safeguarding and</p> <p>11 child protection.</p> <p>12 The nature and extent of abuse at Ampleforth and</p> <p>13 Downside Abbeys and their associated schools.</p> <p>14 The responses to allegations of child sexual abuse</p> <p>15 by the institutions and relevant individuals within</p> <p>16 them.</p> <p>17 An overview of the governance arrangements at both</p> <p>18 institutions and the safeguarding and child protection</p> <p>19 policies in place.</p> <p>20 The involvement of and the liaison with the central</p> <p>21 English Benedictine Congregation, and with other bodies,</p> <p>22 including local authorities, police and advisory bodies</p> <p>23 following allegations of abuse.</p> <p>24 And the manner in which those parties dealt with</p> <p>25 allegations and investigations into child sexual abuse.</p> <p style="text-align: center;">Page 24</p>

<p>1 During the course of the hearing, evidence will be 2 called from some of those who were abbots, headmasters 3 and those involved in safeguarding at the institutions, 4 including some who carried risk assessments on the 5 abusers, also from police who investigated allegations 6 and others involved such as representatives from the 7 Catholic Church's safeguarding body, COPCA, now CSAS, 8 and the safeguarding coordinators from the relevant 9 dioceses.</p> <p>10 If I may deal with some procedural matters. You 11 will have provided to you some bundles with core 12 material for the first chapter of this hearing which 13 will deal with Ampleforth. Your bundle will include 14 tables at B5 and C1 which will give some indication of 15 what is known. As you will see, there are multiple 16 allegations that have been made against many 17 individuals -- as far as Ampleforth is concerned, there 18 is something in the region of 40 -- in respect of many 19 children.</p> <p>20 Similar bundles will be provided to you in respect 21 of Downside in due course, when we come to that evidence 22 in respect of that institution, and bundles will also be 23 provided for each witness who is to be called.</p> <p>24 In a moment, each counsel for the core participants 25 will have an opportunity to make a short statement, just</p> <p style="text-align: center;">Page 25</p>	<p>1 of those witnesses to be called live, some may give 2 their evidence over videolink because the witness is 3 perhaps too unwell or infirm to attend these 4 proceedings. I shall invite you, chair, and the panel 5 to rise while any arrangements around witnesses are 6 made.</p> <p>7 As anticipated by rule 10 of the Inquiry Rules 2006, 8 where witnesses give their evidence live, the inquiry 9 counsel, me, will conduct the majority of 10 the questioning of the witness. Core participants can 11 apply to question witnesses under rule 10. A number of 12 applications have been received already and no doubt you 13 will consider those and any further applications when 14 received.</p> <p>15 Where a witness's evidence is read, that witness has 16 not been required to attend the hearing, and will not 17 appear, but what they have said in their statements will 18 be read into the public record. Some witness accounts 19 are being read because the witness is too unwell to give 20 live evidence. We have circulated proposals outlining 21 what the evidence we intend to read or summarise is and 22 any representations from the core participants are being 23 taken into account.</p> <p>24 Professional support is being made available for 25 each witness who gives evidence, as the inquiry fully</p> <p style="text-align: center;">Page 27</p>
<p>1 lasting 15 minutes. That will be followed by evidence 2 to be called tomorrow.</p> <p>3 We have endeavoured to structure the evidence in 4 what we hope is a sensible and logical way, bearing in 5 mind the amount of material that there is, the time that 6 the offending behaviour spans. It perhaps goes without 7 saying that we will not be able in this hearing to deal 8 with every aspect of every allegation, nor will we be 9 able to answer every question, but we have sought to 10 present evidence in a logical sequence so far as 11 possible and taking into account the availability of 12 witnesses.</p> <p>13 It is anticipated that evidence will be adduced by 14 calling witnesses live, the reading of statements edited 15 or summarised by agreement, evidence being reduced into 16 summary documents and the publishing of material on the 17 IICSA website. This is to enable the inquiry to 18 consider in a proportionate way as broad a range of 19 evidence as possible.</p> <p>20 Some live complainant witnesses who are anonymous 21 will have measures in place to protect their identities: 22 before an anonymous witness testifies, the hearing room 23 will need to be cleared of press and of members of 24 the public who will be able to listen by audio to the 25 witnesses give evidence in a separate room. In respect</p> <p style="text-align: center;">Page 26</p>	<p>1 recognises how difficult a task this really is. There 2 is a restriction order in place that protects the 3 identities, the names, addresses and images of any 4 complainant core participant and any complainant victim. 5 Some of the witnesses have specifically waived their 6 right to anonymity, but for the remainder, the 7 restriction order must apply and so they will simply be 8 referred to by their cipher, as A1, A2, et cetera.</p> <p>9 Similarly, the material obtained for this case study 10 has been redacted and ciphers applied where the inquiry 11 considers it appropriate in accordance with the 12 inquiry's protocol on the redaction of documents.</p> <p>13 As you know, these proceedings will be broadcast. 14 The broadcasting is subject to a five-minute delay in 15 case any issues over the restriction order arise or over 16 ciphering or redactions. We ask for the assistance of 17 all concerned in respecting the processes in place and 18 drawing to our attention promptly any issues that arise 19 so that the broadcast can be terminated and the matter 20 resolved. If any such issues arise, I will say 21 something along the following lines, I will invite you, 22 madam chair, if we notice anything, to terminate the 23 broadcasting link and direct that no communications of 24 the evidence is given for the preceding five minutes. 25 I may also invite you to make a restriction order in due</p> <p style="text-align: center;">Page 28</p>

<p>1 course.</p> <p>2 In terms of who will be heard from first, Abbot Yeo</p> <p>3 will be the first live witness tomorrow, but after some</p> <p>4 background reading. His evidence tomorrow will be</p> <p>5 confined to matters around the English Benedictine</p> <p>6 Congregation, which is really to help understand and set</p> <p>7 the context of the evidence to come. He will be</p> <p>8 recalled to be asked more specific questions about his</p> <p>9 roles as Abbot President and the Abbot of Downside Abbey</p> <p>10 and any other matters arising out of the evidence along</p> <p>11 the way, including issues around the English Benedictine</p> <p>12 Congregation. He will be recalled at the conclusion in</p> <p>13 the last week of these proceedings.</p> <p>14 There will be a statement read towards the end of</p> <p>15 tomorrow, it is anticipated, that comes from</p> <p>16 Abbot Cuthbert Madden, the current abbot of Ampleforth.</p> <p>17 Tomorrow, that statement will be read to provide</p> <p>18 background and context, but he, too, will be called to</p> <p>19 give evidence later on specific matters.</p> <p>20 In conclusion, I would like to pose some questions,</p> <p>21 chair and members of the panel, that I suggest may arise</p> <p>22 during this hearing and that you may wish to keep in</p> <p>23 mind during the course of the evidence that you will</p> <p>24 hear, that will be read, that will be published.</p> <p>25 The questions are these: when looking at these</p> <p style="text-align: center;">Page 29</p>	<p>1 regard to Cumberlege adequate or merely box-ticking</p> <p>2 exercises absent any real genuine desire to implement</p> <p>3 change and leading to a culture of complacency?</p> <p>4 Is there an entrenched belief that the clergy are</p> <p>5 superior to the laity and that their methods of</p> <p>6 safeguarding are better than those that have been</p> <p>7 recommended to them?</p> <p>8 Is rehabilitation within the religious community</p> <p>9 ever a suitable option and, if so, under what</p> <p>10 conditions?</p> <p>11 Those are matters that you may wish to consider</p> <p>12 during the course of the next three weeks, but for now,</p> <p>13 that concludes all that I wish to say to you in opening,</p> <p>14 and so I would invite you, chair, and members of</p> <p>15 the panel, to hear opening statements from the remaining</p> <p>16 core participants.</p> <p>17 THE CHAIR: Thank you, Ms Karmy-Jones. May I turn to you,</p> <p>18 Mr O'Donnell?</p> <p>19 Opening submissions by MR SCORER</p> <p>20 MR SCORER: Actually, Mr Scorer.</p> <p>21 Madam chair and members of the panel, Mr O'Donnell</p> <p>22 and I represent 27 core participants who suffered abuse</p> <p>23 in Roman Catholic institutions and also a campaigner,</p> <p>24 Mr Jonathan West.</p> <p>25 All of the men and women we represent have fought</p> <p style="text-align: center;">Page 31</p>
<p>1 institutions, was there a view there, an entrenched</p> <p>2 view, of child abuse that these things "just happened"?</p> <p>3 Was there a culture of "victim blaming",</p> <p>4 a suggestion that because a child had not made any</p> <p>5 formal complaint, it was less serious when complained of</p> <p>6 later?</p> <p>7 Was the first instinct to protect the perpetrator</p> <p>8 rather than to safeguard the child; to consider the</p> <p>9 perpetrator's well-being over that of the child or the</p> <p>10 vulnerable?</p> <p>11 Were decisions taken with a view to the protection</p> <p>12 of the reputation of the church over and above the</p> <p>13 safety of children?</p> <p>14 Were events deliberately hidden/covered up?</p> <p>15 Was the general attitude one of minimisation of</p> <p>16 allegations?</p> <p>17 Was pressure ever brought to bear on the parents and</p> <p>18 families of those who made complaint?</p> <p>19 Did the institutions ever accede to pressure from</p> <p>20 the families of any monks accused?</p> <p>21 The suggestion that the response was one that was</p> <p>22 characterised as secrecy, is that suggestion correct?</p> <p>23 Were people doing the best they could in the</p> <p>24 circumstances in which they found themselves?</p> <p>25 Were the efforts made to implement Nolan and to pay</p> <p style="text-align: center;">Page 30</p>	<p>1 bravely and tenaciously to expose this abuse, often over</p> <p>2 many decades and in the face of persistent institutional</p> <p>3 stalling and denial. Three of our clients will be</p> <p>4 giving evidence in this hearing, two who suffered abuse</p> <p>5 at Ampleforth and one who was abused by a monk from</p> <p>6 Downside.</p> <p>7 In this opening statement, I want to give our</p> <p>8 perspective on the issues to be considered over the next</p> <p>9 three weeks and what we hope these hearings and your</p> <p>10 report will achieve.</p> <p>11 Over the course of this inquiry, you have already</p> <p>12 seen that many institutions, both secular and religious,</p> <p>13 have a tendency to try to cover up the abuse of</p> <p>14 children. In considering the evidence that you hear in</p> <p>15 relation to Ampleforth and Downside, we ask you to have</p> <p>16 in mind a number of reasons why the temptation to cover</p> <p>17 up has been particularly acute in institutions forming</p> <p>18 part of the Roman Catholic Church and we invite you to</p> <p>19 consider what measures are necessary in order to</p> <p>20 overcome that temptation.</p> <p>21 First, we submit that the temptation to cover up</p> <p>22 abuse is particularly strong in institutions which</p> <p>23 depend for their survival and their future on their</p> <p>24 reputation. Any child abuse is bad for the reputation</p> <p>25 of an organisation. So where reputation is key to an</p> <p style="text-align: center;">Page 32</p>

<p>1 organisation's existence, we submit that there is likely 2 to be an almost overwhelming desire to find some way of 3 avoiding the bad publicity associated with child sexual 4 abuse. 5 This is not necessarily wilful recklessness on the 6 part of the institution. Those within it might 7 genuinely believe, or at least hope, that they can 8 protect both their reputation and the children in their 9 care. But the only person protected in practice is the 10 abuser himself, who knows that future abuses will go 11 unreported. Moreover, when the fact of coverup becomes 12 known around the institution, other people who are 13 similarly inclined will be emboldened to try their luck. 14 For this reason, some institutions become honey pots, 15 where multiple offenders operate, if they get to know of 16 each other's existence they can cover for each other. 17 Of course many institutions, both secular and 18 religious, depend on reputation for their survival and 19 their future. Private schools rely for their income 20 stream on parents who select the school for their 21 children on the basis of reputation. Ampleforth and 22 Downside, as well as being monastic institutions, are 23 also fee-paying schools, so they have, in our view, 24 reputational pressure from that direction. 25 However, we submit that religious organisations,</p> <p style="text-align: center;">Page 33</p>	<p>1 far more badly on the church than wrongdoing by 2 a layman. Again, this creates a powerful dynamic to 3 deny the fact of abuse when it happens and to turn 4 a blind eye to it and in many cases to cover it up. 5 Madam, we submit that over the course of 6 the evidence you will see that dynamic playing out over 7 and over again. You can see it, for example, in the 8 evidence from Dr Elizabeth Mann, the psychologist who 9 interviewed abusive monks at Ampleforth. In her 10 statement filed with this inquiry, she says, and 11 I quote: 12 "The abbot told me that my problem was that I did 13 not believe in divine grace and he had serious doubts 14 about the authenticity of the whole child protection 15 business and it was not in the best interests of anyone. 16 His actual words were 'I am not having child protection 17 policies in the monastery'. " 18 Dr Mann goes on to say: 19 "The prevailing attitude within the wider community 20 of monastery during my years of working there was 21 indifference about reporting sexual abuse and a lack of 22 concern about the effects on victims. There was 23 a serious dissonance between the culture of religious 24 life in the Benedictine Order which protected offending 25 priests and the secular culture of the law of the land</p> <p style="text-align: center;">Page 35</p>
<p>1 including but not limited to the Catholic Church, are 2 particularly subject to the temptation to cover up abuse 3 for reputational reasons. The Catholic Church purports 4 and claims to be a moral beacon for the world around it. 5 It seeks to offer moral guidance and moral leadership to 6 others. That is the very essence of what it claims to 7 do. 8 Yet clerical sex abuse cases powerfully undermine 9 that claim. This gives rise in the Catholic Church, 10 even more than in most institutions, to an overwhelming 11 dynamic leading to the coverup of abuse. 12 In the Catholic Church, that dynamic is reinforced 13 by other deep-seated cultural and theological factors. 14 In particular, according to the doctrine of the Catholic 15 Church, priests are regarded on ordination as being 16 ontologically changed. In other words, changed in the 17 nature of their being and invested with a sacred power. 18 Ordination in Catholic doctrine places the priest on 19 a higher plane. This can lead to a cognitive 20 dissonance, a belief that a priest or monk is a good man 21 and, therefore, couldn't possibly abuse a child or, when 22 the evidence of a priest becomes irrefutable, the 23 offence is put down to a momentary and forgivable lapse 24 blamed in part on the victim. The status of priesthood 25 also means that wrongdoing by a priest or monk reflects</p> <p style="text-align: center;">Page 34</p>	<p>1 which emphasised the need to protect children." 2 A second example: when Downside Abbey discovered the 3 abuse by Richard White, otherwise known as 4 Father Nicholas White, rather than simply report the 5 matter to the police, they instead consulted with their 6 solicitors to find out whether they had to report. The 7 answer, regrettably, quite correct in law, was that they 8 did not. So no report was made. 9 White was sheltered for decades at Downside and 10 Fort Augustus. Successive abbots at both locations 11 accepted his presence in the knowledge of the crimes he 12 had committed and made no attempt to bring them to the 13 attention of the authorities. 14 This remained the case until White's arrest in 2010 15 when his case was uncovered by police examining records 16 as part of a different investigation. But for that, 17 White would still be evading justice now. 18 During this period, madam, the Catholic Church 19 commissioned three reports on the handling of abuse 20 allegations: Bishop Budd's working party which reported 21 in 1994; Nolan in 2001; and Cumberlege in 2007. 22 Over the period of those reports, the Catholic 23 Church has repeatedly given the public impression that 24 it now believes, and indeed requires, that allegations 25 of abuse should be reported to statutory authorities and</p> <p style="text-align: center;">Page 36</p>

<p>1 that this requirement includes so-called historic 2 allegations. 3 You will need to consider very carefully whether the 4 church's written policies actually mandate that or not. 5 But that is certainly the impression which the church 6 has sought to cultivate publicly. 7 In the course of these hearings, you will hear from 8 Abbot Yeo, former Abbot of Downside and, until recently, 9 President of the Congregation. He was also a member of 10 the Cumberlege Commission, yet despite being a member of 11 that Commission, which was there to pronounce on 12 compliance with child protection by the rest of 13 the church, and despite having knowledge of White's 14 crimes, he chose not to report them to the police. 15 So these examples, we submit, encapsulate the 16 temptation to cover up which is deep seated across the 17 Roman Catholic church. Of course a critical issue for 18 you to consider is whether anything has really changed. 19 Those who appear before you to speak on behalf of 20 Ampleforth and Downside will no doubt tell you that bad 21 things happened in the past but that child protection is 22 much better now. We urge you to treat that claim with 23 due scepticism. 24 The reputational pressures, the cultural and 25 theological factors which led to abuse being covered up</p> <p style="text-align: center;">Page 37</p>	<p>1 Bishops' Conference only to be told that bishops had not 2 read those policies or did not agree with them." 3 She also says that monks who did want to blow the 4 whistle on abuse at Downside found it almost impossible 5 to do so for fear of reprisals. She also says: 6 "There was and continues to be a very strong and 7 powerful old boy network amongst Downside clergy and the 8 overwhelming aim in my experience was to protect 9 themselves with some honourable and notable exceptions." 10 The power of these clergy and their friends cannot 11 be underestimated. This had, and continues to have, she 12 says, a devastating effect on victims. 13 Madam, one of our clients who will be giving 14 evidence in this hearing will be testifying to the 15 terrible silencing power of this network. 16 So we submit that, whatever the Catholic Church's 17 public position, it remains subject to a constant and, 18 in some cases, overwhelming temptation to deal with 19 abuse in-house in the hope that the reputation of 20 the church can be protected. 21 That leads me to our final point today: when 22 considering how to deal with the temptation that I have 23 described, we strongly urge you to consider the need for 24 reform of the law. 25 Failure to report abuse is currently not a crime.</p> <p style="text-align: center;">Page 39</p>
<p>1 in Catholic institutions have not gone away. They 2 remain as powerful as ever. Indeed, many of 3 the personnel and decision makers in the church remain 4 the same too. In considering the evidence presented to 5 you about the church's approach to child protection now, 6 we urge you to look below the surface appearance. 7 In the course of these hearings, you will hear from 8 one of our clients who was abused at Ampleforth in the 9 very recent past. She will tell you that her sense was 10 that Ampleforth was obsessed with creating the 11 impression, the appearance, of compliance with child 12 protection policies, but that the reality was very 13 different. 14 Appearance was everything because child protection 15 policies were not seen primarily as being about 16 protecting children, but about protecting the reputation 17 of the institution. We urge you, too, to have in mind 18 the comments of the former head of safeguarding for the 19 Clifton diocese. In her statement filed with this 20 inquiry she says: 21 "The Catholic Church's PR machine likes to point out 22 that it has these policies and procedures in place but 23 in many cases individual bishops and clergy, although 24 not all, resist those policies. I experienced many 25 times when I would explain a policy had been agreed by</p> <p style="text-align: center;">Page 38</p>	<p>1 Therefore, the temptation to cover up abuse currently 2 gives rise to a significant moral hazard. Abuse can be, 3 and in many cases has been, covered up for decades. But 4 those committing wrongdoing by collaborating with 5 abusers to cover up abuse have no risk of suffering 6 adverse consequences as a result of their actions. 7 Those good people working within the Catholic Church who 8 do want to ensure that child sexual abuse is tackled 9 properly have no real lever by which they can enforce 10 compliance by others. 11 In the case of Richard White, Downside went to the 12 trouble of taking advice on whether they had a legal 13 duty to report. The fact that they did so is the 14 clearest possible evidence that the existence of 15 a mandatory reporting law would have changed their 16 behaviour. Had there been a law requiring the abuse to 17 be reported at the time, White would have been brought 18 to justice many years earlier and he would never have 19 had the opportunity to abuse his second victim. 20 This is a situation that we find repeated over and 21 over again with the Catholic Church and indeed 22 elsewhere. Abuse was discovered but not reported. 23 Abusers remained free to abuse again, and great but 24 entirely avoidable harm was done to their subsequent 25 victims.</p> <p style="text-align: center;">Page 40</p>

<p>1 Madam, because we have no mandatory reporting law, 2 that temptation to cover up, in our view, remains 3 undiminished today. The Catholic Church and the 4 institutions you hear from in these hearings will tell 5 you that things are different now. But the question you 6 have to ask is this: when all the fuss from this inquiry 7 has died down, can we really rely on these institutions 8 voluntarily to ensure that they never slip back into old 9 habits, even though the old temptations exist today as 10 surely as they did before? If, as we submit, you cannot 11 safely assume that the Catholic Church will volunteer to 12 rigorously report suspicions of abuse to the secular 13 authorities, then it follows that external compulsion 14 must be applied in the form of a mandatory reporting 15 law. Only then, we submit, can we have confidence that 16 children will properly be protected in the future. 17 Thank you. 18 THE CHAIR: Thank you, Mr Scorer. We move to Mr Enright? 19 Opening submissions by MR ENRIGHT 20 MR ENRIGHT: Good morning, chair and panel. I appear on 21 behalf of F12, a Scottish survivor of the English 22 Benedictine Congregation. I also represent 12 core 23 participant survivors of the Comboni Missionary Order 24 and F44, a survivor of the Christian Brothers. 25 Together, they represent 20 per cent of</p> <p style="text-align: center;">Page 41</p>	<p>1 community the power and depth of influence the 2 Catholic Church exerts over its members. Counsel to the 3 investigation has alluded to this, and it is a chilling 4 aspect of child sexual abuse within the Catholic Church 5 that the abusers are not only men in positions of trust 6 who wielded authority over children, they are also seen 7 by the abused and their families as being spokesmen for 8 the God they worship, men who are supposed to be the 9 shepherds of their souls, men who hold the very keys to 10 heaven. 11 It is hard to imagine a greater hold that 12 a child abuser could have over its victim. 13 F13 was abused at his Catholic primary school by 14 Catholic brothers. He was abused by members of 15 the English Benedictine Congregation at Pluscarden and 16 Fort Augustus Abbey. We have heard of the movement of 17 a paedophile from England to Fort Augustus this morning 18 from counsel to the inquiry and Mr Scorer. 19 On 8 November 2017, this November, the National 20 Crime Agency's Modern Slavery and Human Trafficking Unit 21 issued a conclusive grounds decision finding that F13 22 had been a victim of modern-day slavery. This finding 23 by the National Crime Agency in relation to participant 24 F13 demonstrates the seriousness of the issues before 25 this inquiry.</p> <p style="text-align: center;">Page 43</p>
<p>1 the victim/survivor core participants in this latest 2 investigation in a very long line of investigations into 3 the Roman Catholic Church, but of course they are not 4 a mere percentage, they are individual humans imbued 5 with dignity, bravery and fortitude. 6 They, like the other core participants in this 7 investigation, hope and pray that this is the last time 8 a public inquiry will have to be called into the 9 Catholic Church. I echo counsel to the inquiry's 10 submissions: there are almost a million children in 11 Britain who are educated in institutions run by or in 12 which a church is significantly involved, and, 13 therefore, this inquiry must determine what has been and 14 what is the scale of child sexual abuse in the 15 Catholic Church in Britain; are there cultural 16 inhibitors in the Catholic Church that prevent effective 17 child safeguarding; are there structural inhibitors in 18 the Catholic Church and its separate law that prevent 19 effective child safeguarding? 20 A line must finally be drawn, and this inquiry must 21 answer the question: can children be safe in the care of 22 the Catholic Church? 23 Those I represent are men who were, and in some 24 cases still are, devout Catholics. It is very difficult 25 to explain to someone not brought up in a Catholic</p> <p style="text-align: center;">Page 42</p>	<p>1 Two days after the National Crime Agency issued this 2 finding, the inquiry's first witness, Dom Richard Yeo, 3 visited F13 at his home, along with Bishop John Keenan. 4 We would hope that counsel to the investigation will 5 explore with Dom Yeo the reason for his visits to F13's 6 home in the wake of this finding and the immediate 7 run-up to this hearing and, indeed, what the English 8 Benedictines hope to do for F13 to bring him comfort and 9 closure. 10 F1 to F12 are 12 core participant survivors of 11 the Comboni Missionary Order. They attended a Catholic 12 seminary school in Mirfield in Yorkshire run by that 13 order, an order that specialises in missionary education 14 around the world. 15 They are a striking group of men, highly educated 16 and articulate. They include among their number 17 a retired senior officer of our armed forces, a retired 18 executive of an international PLC, teachers, academics, 19 businessmen and a highly regarded classical performer. 20 Those men, or boys, as they were then, were 21 hand-selected as some of the brightest and most devout 22 children of their communities. They were selected also 23 because, as 10- and 11-year-olds, they dreamed of 24 becoming missionary priests. Quite a number went a long 25 way down the road to taking religious orders. One, F3,</p> <p style="text-align: center;">Page 44</p>

<p>1 became a brother of the Comboni religious order and 2 undertook missionary work in the most difficult 3 circumstances of Idi Amin's Uganda. All were abused by 4 Catholic priests and brothers. In most cases, they were 5 abused repeatedly over many months and, in a number of 6 cases, years.</p> <p>7 They had led very sheltered lives in the Catholic 8 families and communities they came from. They had no 9 understanding of sex other than it was wrong, it was 10 dirty, it was a sin.</p> <p>11 The culture of their school, their church and their 12 faith was of obedience and, in particular, obedience to 13 Holy Fathers. Over time, and as abuse continued, and as 14 they grew, they came to have doubts. But as F6 15 explained his childhood dilemma to me, and he has flown 16 a very long way to be here today, how could the hands 17 that held the host, the body of Christ, aloft every 18 morning in mass possibly do wrong? His words.</p> <p>19 F4 could also not bring himself to accept that the 20 kindly Italian priest who tended to boys when they were 21 ill could possibly do something wrong. He just couldn't 22 accept it.</p> <p>23 F4 described this to me, with tears in his eyes, 24 how, as an adult, he would watch old-fashioned war films 25 and the hero would be captured and subjected to torture</p> <p style="text-align: center;">Page 45</p>	<p>1 As F4 and the other boys turned to leave his room, 2 the spiritual adviser stopped them and he reminded them 3 that their abuser, this prolific abuser, may have 4 availed himself of the sacrament of confession and, if 5 he did, his sins were washed away and they, as good 6 Catholics, must accept that.</p> <p>7 F8 also reported the abuse he was suffering at the 8 hands of the seminary's vice rector to the seminary 9 college's spiritual adviser. The spiritual adviser told 10 F8 to forget about the incidents and not discuss it 11 anymore.</p> <p>12 F4 also went to a priest he trusted and admired. 13 They went for a walk in the playground. He began to 14 open his heart and, as soon as he did, that priest, his 15 friend, told him, "Stop there" and would hear no more.</p> <p>16 F12 was also abused by the vice rector of St Peter 17 Claver College. He told the father rector of 18 the seminary about the abuse. The father rector asked 19 no questions and took no action.</p> <p>20 F6, who I have already mentioned, who has come 21 a long way to be here today, attended the seminary 22 college. Priests of the school abused him repeatedly as 23 a young boy. Despite this, he was bright, he had a deep 24 faith, he excelled and became the school captain, the 25 head boy of the seminary school. When he was appointed</p> <p style="text-align: center;">Page 47</p>
<p>1 and, gritting his teeth and taking his mind to another 2 place, he would endure. F4 told me that every time he 3 saw a scene like that, he was catapulted back in time to 4 the infirmary at St Peter Claver Seminary College.</p> <p>5 Other members of this group and F44 have similar 6 accounts of how they were abused again and again and the 7 terrible dilemmas and conflicts of their mind they 8 suffered: how can this be happening if this holy man is 9 doing it?</p> <p>10 These bright boys grew and so did their doubts and 11 they began to speak up and, when they did, they did not 12 stop speaking up. It is incredible the number of times 13 these boys spoke up seeking support and protection, not 14 just for themselves, but often to try to protect younger 15 boys in the seminary college. It is incredible, also, 16 the responses they received.</p> <p>17 After years of systematic abuse, F4 took 18 a delegation of boys to see the college's spiritual 19 adviser and told him of the sexual abuse. The other 20 boys were crying during that interview, but F4 was angry 21 and he spoke out. The spiritual adviser stated he 22 accepted the accounts of abuse were true. He told the 23 boys he would look into the matter. He then swore them 24 to secrecy and told them never to speak of it again. He 25 did nothing.</p> <p style="text-align: center;">Page 46</p>	<p>1 to that position, he felt a huge sense of responsibility 2 for the other boys, particularly the younger boys at the 3 seminary, whom he knew were being abused just as he was 4 being abused, and he felt, as school captain, he must 5 act. So, once again, he led a delegation of older boys 6 to see the spiritual adviser to tell him that the 7 younger boys were being abused and that he felt a duty 8 to protect them. The spiritual adviser did not take up 9 the complaint on their behalf but he told the delegation 10 of children that "You must go away, you must gather 11 statements from the younger boys, you must take them to 12 the Father Rector, but don't tell him I told you to do 13 this". This priest, this spiritual adviser, sent a boy 14 to do a man's job, his job, but the boy he sent was up 15 to it. F6 gathered the statements of the abused boys 16 and presented them to the Father Rector of the seminary. 17 The Father Rector said that he would deal with the 18 prolific abuser. He did not call the police. He did 19 not launch an investigation. He did not inform the 20 parents of the abused boys. He simply moved the abuser 21 from the school and sent him to the oldest provincial 22 house in London. From there, he was sent to Uganda, 23 where he worked as the bishop's secretary and was then 24 appointed as the chaplain to secondary schools in 25 Northern Uganda and became Scout Commissioner for</p> <p style="text-align: center;">Page 48</p>

<p>1 Northern Uganda. The Father Rector to whom this report 2 was made currently lives in the order's house in 3 Glasgow, he is in his 80s and is mentally well. 4 F5 was abused by a lay teacher employed at 5 St Peter Claver Seminary College. It is believed this 6 teacher was previously employed at Ampleforth. That 7 teacher was removed from the school by the priest who 8 was then the rector and who is now the financial 9 director of a London province of the Comboni order and 10 who lives in London. 11 F3 was repeatedly abused by another priest of 12 the order. Despite this, he became a brother himself. 13 But was always troubled by the abuse he and others had 14 suffered. He raised it again and again with the order 15 nationally and internationally. In legal 16 correspondence, the order made clear admissions as to 17 that abuse. Despite this admission, this priest was 18 permitted to return to active ministry. When F3 19 challenged this fact with the Wrexham diocesan 20 safeguarding officer and the Comboni Order's 21 safeguarding officer, he was assured the priest would 22 not be allowed access to children but remained in the 23 order's other house looking after the sick and dying. 24 However, the evidence shows this priest continued to 25 work with children until as recently as 2014.</p> <p style="text-align: center;">Page 49</p>	<p>1 still are? The sacrament of confession is one of 2 the seven sacraments of the Catholic Church. It is 3 fundamental to the practice of the faith. Catholic 4 priests are also required under Canon law to undertake 5 confession. 6 The Australian Royal Commission into institutional 7 responses to child sexual abuse recently recommended 8 that persons could be charged if they know, suspect or 9 should have suspected that members -- that a child is 10 being abused. That recommendation included members of 11 the clergy. The Archbishop of Melbourne was asked about 12 this and if he would go to gaol rather than disclose 13 matters disclosed to him in confession and he said, 14 "I have said I would go to gaol. I believe this is an 15 absolutely sacrosanct communication of a high order". 16 Why would the archbishop say he would go to gaol rather 17 than reveal matters including child sexual abuse? 18 Because, again, it is the law of the Catholic Church 19 that he cannot. The Canon law states very clearly that 20 a priest is wholly forbidden to use knowledge acquired 21 in confession to the detriment of the penitent. That is 22 to say, the sinner or the abuser. 23 Furthermore, matters revealed in confession, 24 including child abuse, cannot be used for the purposes 25 of governance. Again, Canon law directs this. A person</p> <p style="text-align: center;">Page 51</p>
<p>1 Later in life, these 12 men repeatedly sought to 2 engage the Catholic Church over the abuse they had 3 suffered and feared that children might still be 4 suffering. They contacted and spoke to the most senior 5 members of the order, all of whom had been at St Peter 6 Claver College with them as fellow seminarians and as 7 teachers. On one occasion, F4 was invited to the 8 order's provincial mother house in London for a meeting. 9 He was told by one of the senior order members who had 10 been at the school at the time when they were being 11 abused that the abusing priests had hurt the 12 Catholic Church as much as they had hurt the children. 13 No, they didn't. No, they did not. The priests at the 14 Catholic Church abused my clients, caused them wounds 15 that never healed. They have never healed because the 16 Catholic Church never admitted what happened fully, 17 never apologised truly and never atoned. 18 Of course it must be remembered, and it has been 19 touched on today, that the abuse of my clients along 20 with many of the other victims of abuse by Catholic 21 priests was widely known of because they were reporting 22 it regularly in the confessional, as indeed were the 23 abusers. Why, then, was no action taken by the 24 Catholic Church in relation to regular reports of abuse 25 that were being given in the confessional and presumably</p> <p style="text-align: center;">Page 50</p>	<p>1 who is in authority may not in any way, for the purposes 2 of external governance, use the knowledge about sins 3 which has come to him during the confession. One could 4 not think of a more serious example of a structural 5 obstacle embedded in the law of the Catholic Church to 6 child protection. 7 There have been many public inquiries here, in 8 Australia, America, Ireland, Scotland, and it 9 demonstrates that the Catholic Church has a modus 10 operandi. It fails to report or record child abuse. It 11 often shields abusers and simply moves them to another 12 place. Often, the evidence has shown that this permits 13 abuse to continue again. We have heard of this today in 14 relation to Nicholas White. 15 My clients seek truth, justice and accountability. 16 But most importantly, they want to know that children in 17 Catholic institutions now and in the future are safe 18 from abuse. So in conclusion, I return to the three 19 questions that we and counsel to the inquiry say this 20 inquiry must seek answers to: first, how big is the 21 problem? Currently, we do not know, because the church 22 has not, will not or possibly is not capable of 23 providing us with that information. However, in order 24 to fulfil the terms of reference of this inquiry, the 25 church must be compelled to produce the fullest picture</p> <p style="text-align: center;">Page 52</p>

1 possible.

2 Secondly, are there structural inhibitors to child

3 protection in the church? The answer to this appears to

4 be yes. The refusal to divulge or act upon reports of

5 child abuse in the confessional is an obvious example of

6 a most serious structural inhibitor to child protection.

7 But there are others.

8 Finally, is the Catholic Church capable of enforcing

9 good governance and high uniform standards of child

10 protection? The answer appears to be: no. The

11 Catholic Church is so opaque, so disparate, so full of

12 separate bodies who are not answerable to any central

13 authority, it is hard to see how, without huge reform,

14 it can provide good governance and the high uniform

15 standards of child protection.

16 So the question this inquiry must answer is: can the

17 many strands of the Catholic Church, culturally,

18 structurally and inherently, provide a safe place for

19 children in Britain? Thank you.

20 THE CHAIR: Thank you, Mr Enright. We will now take

21 a 15-minute break.

22 (11.45 am)

23 (A short break)

24 (12.04 pm)

25 MS KARMY-JONES: Chair, I neglected at the outset to

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1 introduce Mr Chapman, who appears together with

2 Mr Greenwood and on behalf of C18 and C19, also

3 represented by Switalskis Solicitors. I think it may

4 well be that Mr Chaplain is the next who will make

5 a submission.

6 THE CHAIR: Thank you. Mr Chapman?

7 Opening submissions by MR CHAPMAN

8 MR CHAPMAN: Madam chair, I act for C18 and C19 on

9 instruction from Switalskis. Each of those were

10 sexually abused by Benedictine monks or their employees,

11 albeit neither attended Ampleforth or Downside.

12 I should say at the outset that we share the

13 concerns expressed by other core participants about the

14 volume and timing of disclosure, and we look forward to

15 hearing Mr Stein's submissions in that regard.

16 We anticipate that the solution is to relax the

17 strict procedures of the inquiry, but we do not seek an

18 adjournment.

19 Madam, we invite you to have the focus of our

20 inquiry in this module the conflict, as we see it,

21 between the Catholic Church and the safety of children.

22 In our submission, the Catholic Church in many ways is

23 inimical to the safety of children in its care.

24 There are four aspects, we say, to that. The first

25 is the theology of the Catholic Church, its teaching and

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1 practice. That is not simply a concern of victims of

2 abuse, but it is clearly one of concern to the

3 Benedictine community, because I read from Richard Yeo's

4 statement at paragraph 174:

5 "The EBC was pleased to be one of the sponsors of

6 the conference in 2016 which aimed at promoting research

7 into whether there are elements in Catholic theology

8 which might tend to encourage abusive behaviour."

9 He adds:

10 "Inevitably, it will be a long time before that

11 research yields any result."

12 It is a matter we invite you to consider in this

13 inquiry now.

14 Secondly, and again, this is a concern raised by

15 Richard Yeo, is the legal status of religious

16 congregations. They have no legal identity. They are

17 unincorporated associations. They are, therefore, not

18 bound, and cannot be made bound, to any national

19 standards that we might seek to impose upon them.

20 Thirdly, is the hierarchy and structure of

21 the Catholic Church. It is a hierarchy where a huge

22 amount of power is vested in a few senior individuals.

23 Too much power, we say, is vested in the bishops, the

24 abbots and the provincials. It means there is

25 inevitably a lack of independent oversight.

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1 Fourthly, the culture and tradition of

2 the Catholic Church and the Benedictine community. It

3 is one which inhibits transparency. It is one which is

4 described in esoteric language, where members dress in

5 distinctive clothes, where the monasteries are set in

6 rarefied and beautiful surroundings. They trade on

7 providing a fine and expensive education. But it is

8 a Harry Potter world of beguiling charm that invites

9 a high degree of trust and indeed receives a high degree

10 of trust, and therein lies the danger.

11 These are not concerns simply of those in this room,

12 and I have referred in written submissions to the

13 concerns expressed by the UN Committee on the Rights of

14 the Child in their document "Concluding Observations on

15 the Second Periodic Report of the Holy See"

16 from February 2014. To quote:

17 "The committee reiterates its concern about the

18 Holy See's reservations to the Convention which

19 undermine the full recognition of children as subjects

20 of rights, and condition the application of

21 the Convention on its compatibility with the sources of

22 law of Vatican City State."

23 In other words, there is something inimical between

24 the Catholic Church and the safety of children that is

25 recognised not only by the core participants in this

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<p>1 room, recognised not only by even the Benedictine 2 Congregation itself, but by the UN Committee on the 3 Rights of the Child, and, therefore, we invite your 4 attention and focus in this inquiry to those concerns. 5 THE CHAIR: Thank you, Mr Chapman. Mr Ruck Keene? 6 Opening submissions by MR RUCK KEENE 7 MR RUCK KEENE: Chair, members of the panel, thank you for 8 the opportunity to make some brief opening submissions 9 on behalf of White Flowers, G1, G3, G4 and G6, on 10 instruction from Hugh James. 11 White Flowers Alba is an organisation that 12 represents a number of men who were educated at the 13 Benedictine-run school, Fort Augustus in Scotland, and 14 who were abused by Benedictine monks who were resident 15 at Fort Augustus. G1, G3, G4 and G6 were among those 16 abused. I say "resident" because a prime concern of 17 White Flowers in this inquiry is not only what the 18 inquiry shows about the English Benedictine 19 Congregation, their schools and abbeys more generally, 20 but the specific issue as to the movement of abusive or 21 potentially abusive monks within and between Benedictine 22 communities, including Fort Augustus and those 23 geographically located in England and Wales. Monks 24 during this post-war period, and indeed to date, were 25 not permanently treated as part of any one particular</p> <p style="text-align: center;">Page 57</p>	<p>1 It remains to be determined by you how far and why 2 those parents were let down by the schools and their 3 associated monastic communities. 4 I fully acknowledge that, in terms of the inquiry's 5 terms of reference and the various preliminary hearings, 6 only the alleged institutional failings by the EBC in 7 England and Wales, rather than specific allegations of 8 the abuse at Fort Augustus, are within your remit, but 9 I would point to some potential institutional failures 10 by the EBC which are of relevance to all over the next 11 three weeks and which are of deep concern to those whom 12 I represent. 13 Firstly, the extent to which members of EBC 14 communities in England and Wales with known or suspected 15 histories or potential for child abuse were moved to and 16 from Fort Augustus. You have already heard about 17 Nicholas White being sent from Downside. 18 Secondly, the reasons for such movements. 19 Thirdly, the extent and nature of information 20 regarding those moved that was or ought to have been 21 shared between the EBC communities; how such information 22 was or ought to have been shared; the extent and nature 23 of information about members of EBC communities moved 24 between those in England and Wales and Fort Augustus was 25 or ought to have been shared with the statutory</p> <p style="text-align: center;">Page 59</p>
<p>1 religious community and could and were moved, whether 2 voluntarily or involuntarily, between English 3 Benedictine Congregation communities. 4 I welcome and support all that you have already 5 heard from counsel to the inquiry as well as those 6 appearing on behalf of other core participants about the 7 gravity and the extent of the issues you are 8 investigating over the next three weeks. It is worth 9 emphasising again that these two specific case studies 10 are into abuse suffered by vulnerable children, 11 generally teenage boys, sent away from home at a young 12 age, some as young as 7 to the associated prep schools, 13 to board. Much of this abuse took place in the days 14 before mobile, before emails, before even landline 15 telephones were available to the boys, and in days when 16 boys went in September, maybe came back for a half term, 17 but reappeared again in December. They were in the 18 total care of their schools. 19 Indeed, their parents entrusted them, that total 20 care of Catholic monks, into the schools run by abbeys 21 very often for the specific reason that they were 22 Catholic schools, that they wanted that combination of 23 a school and monastic community because they wished to 24 ensure that their sons had an education that was both an 25 education in the worldly sense but also a spiritual one.</p> <p style="text-align: center;">Page 58</p>	<p>1 authorities and the police; whether such movement, which 2 we have already heard described by Abbot Yeo in his 3 statement as "exceptional" should have raised concerns 4 within EBC, if the extent of it should have raised 5 concerns, and/or individual communities in England and 6 Wales, should safeguarding concerns have therefore been 7 raised? 8 Next, how were members of EBC communities, in 9 particular and obviously those with associated schools 10 such as Ampleforth and Downside, assessed to be suitable 11 for teaching, suitable for working directly with 12 children; the relationship with the Congregation for the 13 Doctrine of the Faith as the supra-national body within 14 the Catholic Church responsible for determining whether 15 monks should be dismissed from being monks, from being 16 members of a religious community, and therefore able to 17 access children if they had associated schools; what 18 information was or should have been given to the CDF 19 about the movement of monks between communities, say 20 between Downside and Fort Augustus; and, really, 21 overall, with respect to all of these failures, how far 22 they have been properly addressed. 23 I would again quote from the same periodic report of 24 the UN Committee on the Rights of the Child you have 25 just heard referred to where it noted that the committee</p> <p style="text-align: center;">Page 60</p>

<p>1 is particularly concerned that well-known child sex 2 abusers have been transferred from parish to parish or 3 to other countries in an attempt to cover up such 4 crimes, a practice documented by numerous national 5 commissions of inquiry, and I think I would add to that 6 not just from parish to parish, but here we have 7 a specific issue of within community to parish and also 8 within community to community and then back again. 9 Members of the panel, chair, thank you. 10 THE CHAIR: Thank you. Mr Kelly? 11 Opening submissions by MR KELLY 12 MR KELLY: Ampleforth is a college which has 554 students 13 with a junior school called St Martin's Ampleforth which 14 has itself 98 students and the community of monks at the 15 abbey is 62. 16 Let me, at the outset, on behalf of Ampleforth 17 Abbey, Ampleforth College, St Martin's Ampleforth and 18 the St Laurence Dedication Trust, collectively termed 19 Ampleforth, I would like to begin by offering a sincere 20 and heartfelt apology to anyone who has suffered abuse 21 whilst in our care. All students, past, present and 22 future, are entitled to expect that they will be safe 23 and cared for by us. I am deeply sorry that this was 24 not always the case. 25 We wish to apologise for the hurt, injury, distress</p> <p style="text-align: center;">Page 61</p>	<p>1 changes has been to change the composition from an 2 entirely monastic trusteeship to one which is one-third 3 monastic and two-thirds lay. We consider this to be an 4 important reform in emphasising the fact that the abbey 5 do not control the school and seeks instead to work in 6 close partnership with lay people. 7 Historically, the advice of the lay trustees, the 8 lay advisers and, latterly, lay trustees, has been 9 integral to the improvement of the operation of 10 Ampleforth generally, and this is appreciated and 11 valued. This change in governance emphasises that 12 point. The structure in place is continually kept under 13 review to ensure that best practice is in place and an 14 excellent education for all pupils is delivered. 15 The abbey's function in relation to the school is to 16 ensure that the children receive an education which 17 embodies the values and principles of the Roman 18 Catholic Church and the rule of St Benedict. The 19 abbey's influence is focused on the religious backdrop 20 to the education provided by the school which in fact is 21 the main factor in many parents' decisions to send their 22 children to Ampleforth. We and the parents wish that to 23 be maintained. 24 Gilling Castle Preparatory School ceased to exist as 25 an independent body in 1992 when it merged with</p> <p style="text-align: center;">Page 63</p>
<p>1 and damage done to those who were abused as a result of 2 our failings. We will strive with every fibre of our 3 being to alleviate the damage done and to ensure that we 4 do everything we can to ensure that there is no 5 repetition. 6 Ampleforth recognise that before 2005 and the 7 election of Abbot Cuthbert Madden there were failings 8 and omissions, a lack of transparency, misguided loyalty 9 and misjudgments that led in themselves to failings. 10 Ampleforth is committed to strive to improve and to 11 learn from the past and, due to substantial reform and 12 change, Ampleforth can no longer be described as 13 a clerical closed shop. Lessons have been learned and 14 there is much which has now changed in our approach. 15 What are those changes? Well, since 1997, the 16 schools have been run by a separate educational trust, 17 the St Laurence Education Trust. Initially, all the 18 trustees were monks. Since 2010, the trust has had 19 a majority of lay trustees and was chaired by a deputy 20 chair who was, and is, a layperson whenever safeguarding 21 matters were discussed. Since this year, 2017, it has 22 a majority of lay trustees with a lay chair, 23 Claire Smith. 24 It is the St Laurence Education Trust, and not the 25 abbey, which runs the school. The effect of these</p> <p style="text-align: center;">Page 62</p>	<p>1 Ampleforth College Junior House to form Ampleforth 2 College Junior School. The current prep school is 3 St Martin's Ampleforth and that is itself a product of 4 a merger between Ampleforth College Junior School and 5 St Martin's Nawton which took place in 2001. This 6 school was at first independent from the college but in 7 recent years changes have been made to bring the junior 8 school into line with the college and provide a seamless 9 governance structure. The junior school is now under 10 the control and supervision of SLET, the St Laurence 11 Education Trust. Amongst other things, this ensures the 12 two schools have a uniformity of approach to 13 safeguarding with identical safeguarding policies. 14 The abbey has no direct function in the 15 administration of the school in relation to 16 safeguarding. That is not to say that the schools and 17 the monastery work in isolation in relation to 18 safeguarding issues. When safeguarding issues arise 19 from the school, the monastery safeguarding coordinator, 20 Mick Walker, who has made a statement here, can be 21 consulted by the school's designated safeguarding lead, 22 Deirdre Rowe, who is associate head, and any 23 safeguarding concern arising from the school in relation 24 to a member of the community is always reported to 25 Mr Walker and the school is always informed of any</p> <p style="text-align: center;">Page 64</p>

<p>1 allegation concerning a member of the monastic 2 community, even if it is unrelated to the school. 3 There are now internal structures -- child 4 protection coordinators designated, safeguard leads, the 5 Safeguarding Commission and the Safeguarding 6 Committee -- engaged in a constant dialogue in respect 7 of safeguarding and protection. That, combined with 8 external accountability, for example, this inquiry, 9 Independent Schools Inspectorate, the 10 Charity Commission, and CSAS, has led to a changed 11 culture. 12 The school is inspected and monitored by the 13 Independent Schools Inspectorate. Ampleforth have, and 14 it is recorded in the documents, received consistently 15 good reports, most recently the report of March this 16 year, which recorded that the school met all the 17 regulations and standards. 18 It recorded that the school had an appropriate 19 policy of safeguarding, the staff showed effective 20 understanding of the responsibilities, including in 21 respect of reporting any concerns. Today, I want to 22 speak briefly about the teaching staff at Ampleforth 23 College. Following are the numbers: 12 monastic; 94 24 lay, of whom 46 are female. In short, 11 per cent are 25 monastic, 43 per cent female lay, and that contrasts</p> <p style="text-align: center;">Page 65</p>	<p>1 Ampleforth's policy now is one of full, open, 2 transparent and immediate cooperation with the statutory 3 agencies. This has demonstrably been the case since 4 2005 and will continue to be the case. 5 The police, at a meeting on 20 June 2006, 6 acknowledged the improved relationship and the improved 7 way that Ampleforth dealt with matters, as did the North 8 Yorkshire County Council. On 28 June 2007, a police 9 officer, who was due to give evidence here, in her 10 statement points out the current arrangements between 11 the North Yorkshire Police and Ampleforth following the 12 establishment of the non-recent child abuse 13 investigation team appears to work well, in that the 14 safeguarding coordinator for Ampleforth, Mick Walker, is 15 a point of contact for investigators should they require 16 any documentation or information. 17 This facilitates direct access between Ampleforth 18 and that team. 19 The police also attend the biannual meetings of 20 the Ampleforth Safeguarding Commission and on an ad hoc 21 basis the safeguarding events at the college involving 22 staff, the police and the local authority. 23 Adrian Child, the former director of the Catholic Office 24 for the Protection of Children and Vulnerable Adults and 25 latterly of CSAS, describes Ampleforth together with the</p> <p style="text-align: center;">Page 67</p>
<p>1 with the position in, for example, 1949 where 2 60 per cent were monks and there were no women at all; 3 in 1989, where 29 per cent were monks, 8 per cent were 4 female. Elsewhere in the documents we have set out in 5 tabular form the composition historically of the staff 6 at the school. 7 Now all housemasters and housemistresses at 8 Ampleforth are lay people and the majority of 9 the school's senior management team is lay, and it in 10 fact includes a significant proportion of people who are 11 not Catholic at all. 12 In the past, there were failings, which we accept, 13 such as the decision to move Father Piers Grant Ferris 14 in 1975, and Father Gregory Carroll in 1987 to parishes, 15 even though the parish priests were told of their past 16 misdeeds, and the monitoring continued. 17 In the recent past, there have been cases such as 18 that of Dara De Cogan where a lay music teacher groomed 19 and then abused a female student. It is a matter of 20 deep regret that the abuse ever happened. Ampleforth, 21 immediately upon becoming aware, cooperated fully with 22 the police and in the prosecution of De Cogan. 23 Where allegations are made, Ampleforth recognises 24 that those allegations need to be investigated 25 thoroughly and impartially by the statutory authorities.</p> <p style="text-align: center;">Page 66</p>	<p>1 Jesuits and Buckfast Abbey as being exceptions in 2 setting up their own Safeguarding Commissions to address 3 the gap which was left by the Nolan Report which did not 4 address the religious orders adequately. 5 He points out that the current Abbot Cuthbert Madden 6 has been able to establish both a separation of 7 safeguarding structures between the abbey and the 8 school, something he and his predecessor, 9 Eileen Shearer, wanted to achieve, and communication and 10 mutual sharing between the abbey and school which 11 excessive separation would have prevented. There is, as 12 he agrees and points out, a good communication between 13 Ampleforth and the Diocese of Middlesbrough, unlike 14 other areas where he draws a different picture. 15 He found our safeguarding coordinators to be 16 qualified and very capable. We say that this 17 demonstrates, and the evidence which has already been 18 disclosed to you demonstrates, a change of approach and 19 commitment to do everything possible to eliminate risk 20 and ensure transparency and effective policies. 21 We have demonstrated our willingness to critically 22 examine our policy and approach and keep up with best 23 practice by commissioning an independent review of 24 Ampleforth's policy and procedures already, which was 25 carried out by Professor Sue Proctor, and her report has</p> <p style="text-align: center;">Page 68</p>

<p>1 been disclosed in full to the inquiry. 2 We have followed that recent case of A30 and 3 reviewed our policy and procedures and have already made 4 changes, and will continue to make more changes, for 5 example, to the structure of the music department, the 6 training and approaches of all teaching staff. 7 We also say that our approach to this whole issue 8 can be shown in how we have approached, for example, the 9 issue of discovery, a much troubled issue before this 10 inquiry. Back in June, I had urged the inquiry to set 11 a tight timetable for it and described what might happen 12 if disclosure were delayed. I say no more about that at 13 this stage, but we have disclosed -- by July this year, 14 we had disclosed something approaching 1,000 documents. 15 We voluntarily put them up because it is our view that 16 it is only when you are able to consider and take 17 account of all of the documentation that you can 18 actually begin to get a true picture of what has been 19 going on. 20 We hope to learn from what is revealed in this 21 wide-ranging and comprehensive inquiry, and in that 22 spirit we worked with the inquiry and will continue to 23 do so, as well as continuing to fully cooperate with the 24 statutory agencies and all involved in the hope of 25 ensuring the safety of all in the future. Our approach</p> <p style="text-align: center;">Page 69</p>	<p>1 13 independent monasteries in the Congregation, of which 2 ten are in England and Wales and three in the 3 United States of America. Monks and nuns are members of 4 the individual monasteries, rather than a congregation 5 and each monastery is autonomous and self-governing 6 under the leadership of the respective abbot or abbess. 7 The Congregation exists to help each of 8 the monasteries fulfil and achieve its full potential. 9 The head of the EBC is the Abbot President, who is 10 elected by the General Chapter, which is the governing 11 body of the whole congregation. Shortly before the 12 first preliminary hearing in July 2016 in relation to 13 this case study, the then Abbot President, Richard Yeo, 14 wrote to all abbots and abbesses of the monasteries of 15 the Congregation. He said that his and their first 16 concern was clearly the care of victims and survivors of 17 abuse and that this inquiry meant that they are called 18 to absolute transparency and honesty about any faults 19 that had been committed. In addition, he said the 20 inquiry provided an opportunity to get beyond any lack 21 of transparency in the past. 22 The current Abbot President, Christopher Jamison, is 23 equally and wholeheartedly committed to assisting the 24 inquiry throughout this case study in the same honest 25 and transparent way. Downside Abbey is the senior</p> <p style="text-align: center;">Page 71</p>
<p>1 now is, when an allegation is made, or one is suspected, 2 we immediately involve the statutory authorities. Thank 3 you. 4 THE CHAIR: Thank you, Mr Kelly. Ms Gallafent? 5 Opening submissions by MS GALLAFENT 6 MS GALLAFENT: Good afternoon, chair, members of the panel. 7 I appear on behalf of the Catholic Council for the 8 Independent Inquiry into Child Sexual Abuse and the 9 English Benedictine Congregation, and in particular 10 Downside Abbey and school. 11 The Catholic Council was set up by the Catholic 12 Bishops' Conference of England and Wales, representing 13 the bishops, and the Conference of Religious, 14 representing the majority of religious congregation 15 leaders, to assist the inquiry in its deliberations. 16 The Catholic Church in England and Wales welcomed 17 the inquiry when it was established and is committed to 18 giving the inquiry its full support and cooperation. 19 The role of the Catholic Council is to support the 20 numerous organisations that make up the Catholic Church 21 in England and Wales and to assist them in meeting all 22 of the requirements of the inquiry. 23 The English Benedictine Congregation is a monastic 24 congregation and, as such, it is akin to a union of 25 independent monasteries. There are currently</p> <p style="text-align: center;">Page 70</p>	<p>1 Benedictine monastery of the EBC and had been based in 2 Somerset since the early 19th century. It currently 3 consists of 17 monks. Since the monastery's 4 establishment in the 17th century, it has organised 5 a school which now consists of around 380 pupils and has 6 been co-educational since 2005. 7 Education has been central to the work of the entire 8 Congregation for centuries and its abbeys and schools 9 are proud of the tradition of academic excellence and 10 spiritual values that they have offered many thousands 11 of children. The Congregation expresses profound shame 12 that any child has been the victim of sexual abuse 13 whilst in the care of the schools connected with its 14 abbeys and, as the number of children who have been 15 abused has become increasingly apparent, this shame has 16 been accompanied by intense sadness at the anguish 17 caused to so many people. 18 Representatives from the EBC and Downside will be 19 giving evidence to the inquiry in which they will offer 20 their fullest, unequivocal apologies to all those who 21 have been abused while in their care. They recognise 22 that more can and should be done to help and support 23 victims and survivors of child sexual abuse and, on 24 behalf of the Abbot President, I would like to say that 25 he would welcome and encourage any victim or survivor to</p> <p style="text-align: center;">Page 72</p>

<p>1 make contact either with the abbey or school at which 2 they were taught or where they attended or with him 3 personally. 4 Whilst the inquiry hearings offer an opportunity to 5 hear from a small number of victims and survivors, the 6 Abbot President recognises there are many others whose 7 voices it is right that the Congregation should hear. 8 Some of these may have contacted their abbey or school 9 in the past and been dissatisfied with the response. 10 Some may never have done so. But Abbot Christopher 11 would urge those victims and survivors nevertheless to 12 take this opportunity to make contact with them or 13 directly with him in order that they may be provided 14 with appropriate support and assistance. 15 It is inevitable and understandable that some 16 victims and survivors may prefer not to contact the 17 members of the Congregation or its abbeys or schools, 18 but there will be another way in which their voices can 19 be heard other than that during the course of this 20 hearing. Separately from its work in response to this 21 inquiry, Downside Abbey and school have commissioned 22 a review and audit of their safeguarding procedures from 23 the Social Care Institute for Excellence. 24 As part of that review, the institute will be 25 inviting victims and survivors to assist it by providing</p> <p style="text-align: center;">Page 73</p>	<p>1 respect of the school's governance will further improve 2 safeguarding at the school and abbey. However, it is 3 certainly not complacent about the steps that it and 4 they have taken, and will continue to take, to improve 5 the safety of children in their care. 6 Representatives from Downside, as well as the 7 Catholic Council and the EBC, will be attending these 8 hearings and all will listen to the evidence in a spirit 9 of humility and openness. This includes, of course, the 10 evidence not only from survivors and victims, but other 11 organisations who have been involved where allegations 12 of child sexual abuse have been made, such as the 13 police, relevant diocesan authorities and inspection 14 agencies. They recognise there is much for all 15 organisations to learn. 16 The Catholic Council and the Congregation and in 17 particular Downside Abbey and School are all committed 18 to learning from the past and taking all appropriate 19 steps for the future to protect children from sexual 20 abuse and exploitation. They look forward in due course 21 to the inquiry's report and recommendations which will 22 guide them for the future. They welcome the opening of 23 this, the hearing for the first case study in the 24 inquiry's investigation into the Catholic Church in 25 England and Wales and are grateful for the opportunity</p> <p style="text-align: center;">Page 75</p>
<p>1 evidence and their opinions on how allegations of child 2 sexual abuse have been handled and raise any concerns 3 about any aspect of safeguarding at Downside Abbey and 4 School. 5 The views of victims and survivors will be 6 invaluable to informing the institute's recommendations 7 for the future, and information on how to contact the 8 institute will be provided on Downside's website in due 9 course. 10 Downside is also in the process of reviewing the 11 governance of the school and the relationship between 12 the abbey and the school following the mandate issued at 13 the end of the visitation conducted in June 2016. The 14 trustees of Downside Abbey General Trust, which is 15 ultimately responsible for the provision, maintenance 16 and upkeep of the abbey and school, are actively 17 exploring ways in which the school could become legally 18 and financially separate from the abbey. Senior school 19 staff have been working on a school development plan by 20 which this could be achieved through the creation of 21 a new school trust and it is anticipated that initial 22 proposals will be ready for consideration by the 23 trustees in early 2018. 24 Downside is confident that the report by the Social 25 Care Institute for Excellence and the work to be done in</p> <p style="text-align: center;">Page 74</p>	<p>1 to make this short opening statement. 2 THE CHAIR: Thank you, Ms Gallafent. Mr Payne? 3 MR PAYNE: No, thank you. 4 THE CHAIR: Thank you. Ms Griffiths? 5 Opening submissions by MS GRIFFITHS 6 MS GRIFFITHS: Thank you, chair. Eileen Shearer and 7 Adrian Child, the core participants we represent, wish 8 to cooperate fully with the inquiry in its important 9 work and have done so to the best of their ability. 10 Obviously, the same applies to those representing them. 11 They deal with the safeguarding delivered to the 12 Catholic Church through the Catholic Office for the 13 Protection of Children and Vulnerable Adults, COPCA, and 14 latterly CSAS, the Catholic Safeguarding Advisory 15 Service. 16 It is assumed that the reason that they are core 17 participants is because they have a direct and 18 significant role in the inquiry rather than because of 19 any suggested criticism of either of them. Those 20 representing them are not aware of any such criticism. 21 Indeed, the documents are replete with compliments 22 regarding their work through COPCA and CSAS. 23 Even so, the opportunity for them to give their best 24 evidence has been lost because of the way the inquiry 25 has been run. This has put these core participants and</p> <p style="text-align: center;">Page 76</p>

<p>1 their advisers under significant pressure and 2 difficulties. By way of example, despite those who 3 instruct me informing the inquiry in March of this year 4 of the relevance of Eileen Shearer to this inquiry, no 5 steps were taken to seek any input from her until 6 late September when a witness statement was sought. 7 A section 40 award was made at the last directions 8 hearing in October.</p> <p>9 In her witness statement, she talks of trying to 10 plough through 18,000 documents recently sent and in no 11 apparent order. Since then, there have been thousands 12 more pages, continuing unabated last week, and still 13 ongoing. She would have liked to prepare a considered 14 supplemental witness statement to deal with various 15 points but time does not allow for that.</p> <p>16 Adrian Child was asked to prepare a witness 17 statement with no proper indication of the areas that 18 the inquiry would like him to address and with no proper 19 access to relevant documentation. Proper disclosure of 20 relevant material has not been forthcoming. It has all 21 been too little too late, as we have said at the outset 22 that it would be.</p> <p>23 At the beginning of last week, several thousand 24 pages were disclosed, with a promise of 12,000 more 25 before the end of the week; ie, within one working day</p> <p style="text-align: center;">Page 77</p>	<p>1 is for that reason that I defer any detailed statement 2 of their position until we have had the opportunity to 3 consider the disclosed documentation, which may well be 4 after the core participants have given evidence. 5 Permission to ask relevant questions cannot be sought 6 until the material has been read. The reason we revisit 7 these matters now is to explain, first of all, the 8 generality of this opening statement; secondly, why 9 there has been no request as yet to raise matters with 10 individual witnesses; and to raise the difficulties it 11 will create if any criticisms unexpectedly arise of 12 these core participants.</p> <p>13 Of course, if a core participant is to be 14 criticised, he or she is entitled to the benefit of 15 the summon protections which will be well known. 16 Furthermore, none of the usual undertakings seem to be 17 put in place relating to the restricted availability or 18 use of inquiry material without permission first being 19 obtained from you, madam chair. Indeed, it is all in 20 the public domain.</p> <p>21 That, then, is the backdrop to this inquiry. 22 As to the evidence, very briefly, just to outline 23 Eileen Shearer's or Adrian Child's roles, neither of 24 them were involved before 2002. Eileen Shearer became 25 involved when COPCA was set up in 2002 following the</p> <p style="text-align: center;">Page 79</p>
<p>1 of the start of this inquiry. We are still waiting. 2 As we said in October, it has not been possible even 3 to read all the documents that have been received late 4 and in no order, nor to cross-reference them with 5 witness statements disclosed on the drip from 6 late October. It was no exaggeration then to say it 7 would take the best part of nine months to get the 8 matter ready for hearing.</p> <p>9 Furthermore, although more hours were granted last 10 week to read those documents, the weekly cap has not 11 been raised, so the inquiry seems to accept we need more 12 time to read the documents, but won't allow us to raise 13 the cap to do so.</p> <p>14 We have raised these matters at both pre-trial 15 reviews, the first in writing and orally in October. 16 The response was but one word from counsel to the 17 inquiry: proportionality. We have had neither ruling 18 nor comments from the panel as to the adequacy of that 19 response, nor about the fairness of the present 20 position.</p> <p>21 For a number of reasons, including the fact that 22 there is no obvious funding, there are no steps or 23 proceedings that these core participants can take at 24 this time.</p> <p>25 For now, therefore, we have to do what we can. It</p> <p style="text-align: center;">Page 78</p>	<p>1 Nolan Review, its aim being to implement Nolan 2 recommendations regarding safeguarding. 3 By January 2002, in as little as five months after 4 the Nolan Conference of Bishops and Conference of 5 Religious had accepted the Nolan recommendations, COPCA 6 was established with Archbishop Vincent Nichols as 7 director.</p> <p>8 Quite apart from the size of the task COPCA was 9 asked to undertake, we say it is important to remember 10 that this was a completely new enterprise that had to be 11 set up and brought up to speed very quickly with very 12 limited resources, including regulating their own 13 internal policies and procedures.</p> <p>14 For the first nine months, they had one director and 15 one full-time administrative support post. Between 2002 16 and late 2004, they had a director, a PA, an office 17 manager and two professional child protection posts.</p> <p>18 In 2005 and 2007, they had Eileen Shearer as the 19 director, a deputy director, a PA, an office manager in 20 a part-time administrative post. Their function was an 21 advisory one. It was the function of safeguarding 22 coordinators to liaise with external agencies such as 23 the police.</p> <p>24 The proactive nature of COPCA and the external 25 intervention was not something that the Catholic Church</p> <p style="text-align: center;">Page 80</p>

<p>1 was used to, and COPCA, in some quarters, met some 2 resistance, for example, regarding external risk 3 assessments. 4 Eileen Shearer made it her business to visit every 5 single bishop to help drive forward safeguarding. And 6 I say "drive forward". 7 There were historical difficulties with 8 Congregations of Religious who had a different structure 9 and, of course, their involvement was added almost as an 10 afterthought by the Nolan Inquiry with no detailed 11 consideration of the considerable practical difficulties 12 that their involvement gave, especially as we have heard 13 various core participants talk about the disparate 14 structure of the church. 15 Lack of funding and time constraints meant it was 16 not possible to meet each and every one of those 300 17 groups, but COPCA, under Eileen Shearer's directorship, 18 did set up two commissions, offered advice, held 19 national conferences, all in an effort to drive forward 20 the most difficult concept of the "One Church" approach. 21 Additional frustrations were the lack of expertise 22 of those within the Catholic Church dealing with 23 safeguarding issues and there were issues that have 24 still not been addressed about properly saying sorry to 25 victims of abuse.</p> <p style="text-align: center;">Page 81</p>	<p>1 were also a number of entirely new matters. 2 Good progress was made in many areas but 3 Adrian Child, too, was concerned about several matters, 4 including the lack of progress in what was said to be 5 a top priority in relation to the church's response to 6 victims, the "saying sorry" and he complains about 7 a lack of moral leadership by bishops in that regard. 8 Since Nolan and Cumberlege, the Catholic Church has 9 made great strides forward. It is acknowledged, 10 however, that further progress can be made and should be 11 made. 12 The extent of the progress is due in no small part 13 to the dynamism, conscientiousness, professionalism and 14 experience of both Eileen Shearer and, later, 15 Adrian Child. 16 Despite that progress, it would be complacent for it 17 to be thought that the job has been done. Continued 18 funding is needed to continue this important work. 19 Constant vigilance is required. The policies and 20 procedures need be regularly reviewed. 21 Excellent safeguarding procedures are in place. 22 Indeed, after a Vatican review in 2011 or 2012, they 23 were regarded by some as the gold standard in matters of 24 safeguarding throughout the world. 25 The infrastructure is therefore in place. It is</p> <p style="text-align: center;">Page 83</p>
<p>1 Despite all those difficulties, great progress was 2 made, as was acknowledged in the Cumberlege Review in 3 2007. Adrian Child was appointed assistant director of 4 COPCA when Eileen Shearer was the director. He became 5 acting director in July 2007 when Eileen Shearer 6 resigned. It was a natural time for her to step down, 7 to take on new challenges, when she knew she was handing 8 over to a suitable successor in Adrian Child and COPCA 9 was taking a new direction, being replaced by CSAS. 10 Adrian Child was appointed the first director of 11 CSAS in July 2008. He continued in that role 12 until February 2015. Between February and July 2015, he 13 worked in a consultancy capacity and then retired. His 14 successor was Colette Limbrick, who has provided 15 a witness statement to the inquiry. The role of CSAS 16 was one of coordination, advice and support for the 17 Catholic Church regarding safeguarding of children, 18 young people and vulnerable adults. It was there to 19 receive and deal with external inquiries from 20 individuals and to ensure that questions were met with 21 considered responses. 22 Their role was also to ensure that the 23 recommendations numbered 15 to 18, inclusive, of 24 the Cumberlege recommendations were implemented as 25 Adrian Child sets out in his first exhibit, but there</p> <p style="text-align: center;">Page 82</p>	<p>1 a matter whether the church leaders exercise their power 2 to use it. Thank you, madam chair. 3 THE CHAIR: Thank you, Ms Griffiths. Mr Dixey, do you wish 4 to speak? 5 MR DIXEY: Madam, we don't propose to make an opening 6 statement in this case study. We may well make an 7 opening case statement in future case studies. 8 THE CHAIR: Ms Karmy-Jones, did you wish to address me? 9 MS KARMY-JONES: I was only going to say that obviously you 10 have determined that complaints in respect of disclosure 11 and submissions around those points will be made at the 12 conclusion of the hearing, and we have heard what 13 Ms Griffiths QC has had to say, but there will be time 14 later on. Also, certainly to us, it is not clear what 15 is meant about the usual undertakings not to have been 16 put in place. All undertakings, as I understand it, 17 have been put in place, but we will consider what has 18 been said about that over the lunchtime adjournment. 19 I wonder whether, given the time now, you may wish 20 to rise now rather than hear someone part heard? It is 21 of course a matter for you. 22 THE CHAIR: Yes, of course. We will return at 2.00 pm. 23 (12.54 pm) 24 (A short break) 25 (2.00 pm)</p> <p style="text-align: center;">Page 84</p>

<p>1 MS KARMY-JONES: Madam chair, before we begin, can I just 2 indicate now that there has clearly been some confusion 3 around the position as far as undertakings are 4 concerned. I will address you at a little more length 5 after we finish the opening submissions, but there has 6 been some confusion as far as the undertakings are 7 concerned and also it would appear as far as the 8 section 40 point, but I will address you about those 9 when we come to the disclosure point later this 10 afternoon. 11 THE CHAIR: Thank you, Ms Karmy-Jones. I understand 12 Ms McGahey doesn't wish to speak; is that correct? 13 MS MCGAHEY: That's correct, thank you very much. 14 THE CHAIR: And the Independent Schools Inspectorate do not 15 wish to speak? 16 MS MCKIMM: That's correct. 17 THE CHAIR: Which takes us to Ms Simor of Ofsted? 18 MS SIMOR: We have no submissions either, thank you. 19 THE CHAIR: Thank you very much. Ms Karmy-Jones? 20 MS KARMY-JONES: So a little sooner than expected. 21 Discussion re disclosure 22 Submissions by MS KARMY-JONES 23 MS KARMY-JONES: Can I, first of all, touch upon the point 24 that Mr Stein made at the outset on disclosure which 25 I understand is something that he wishes to advance on</p> <p style="text-align: center;">Page 85</p>	<p>1 Downside and the EBC, the very institutions this hearing 2 is focusing on, and this despite other requests for 3 swift disclosure to be made. 4 That material, received late, all has to be 5 reviewed, considered, redacted, ciphered and then 6 reviewed again in accordance with proper procedure for 7 the disclosure exercise to be made. That is 8 a time-consuming exercise, and inquiry resources, it 9 must be remembered, are not infinite, nor should they 10 be. That late disclosure has not only affected other 11 core participants, but also solicitors and counsel to 12 the inquiry's work and preparation for this hearing, 13 because in order to reduce the problems caused to other 14 core participants, counsel to the inquiry and solicitors 15 have had to put other tasks to one side in order to 16 conduct the review. 17 It should also be borne in mind that 57,000 pages of 18 material have been disclosed in regular notified 19 tranches since 2 August in accordance with our 20 undertakings to do so. So it is not right to say that 21 the inquiry in any way have been lax. 22 It may be, chair, that you wish to have some 23 explanation as to why there has been late disclosure 24 from those responsible for it. But it is quite plain 25 that all that responsibility should not be laid at the</p> <p style="text-align: center;">Page 87</p>
<p>1 behalf of a number of the different core participants 2 present. 3 As I said when I opened my comments this morning, 4 counsel to the inquiry acknowledge that there have been 5 difficulties with late disclosure and that the inquiry 6 is continuing to disclose material now, so the exercise 7 is not yet finished. 8 But in a note on 2 November, we explained that we 9 hoped to complete disclosure in respect of most of 10 the material providers by 10 November and, whilst we 11 were able to achieve this in respect of a number of 12 providers, there is still some material yet to disclose. 13 They have that material listed in a document so they 14 know what remains. 15 We agree this is less than satisfactory, but it must 16 be remembered that, in the first instance, the inquiry 17 relies on the cooperation of all core participants, and 18 swift disclosure to the inquiry depends on proper and 19 timely disclosure being made by core participants 20 themselves. In this case hearing, requests for 21 disclosure were sent in January of 2016, yet, on 22 27 September 2017, this year, very recently, the inquiry 23 received nearly 12,000 pages of material from Downside. 24 We have also received 500 pages from the English 25 Benedictine Congregation since 30 August, I believe,</p> <p style="text-align: center;">Page 86</p>	<p>1 door of the inquiry. 2 In respect of the points around undertakings -- 3 perhaps that should be dealt with first, in fact. If we 4 deal with that and then I will move on to the issues 5 around undertakings and other matters raised by 6 Ms Griffiths, if I may. 7 Submissions by MR STEIN 8 MR STEIN: Madam, I'm grateful for now having all afternoon 9 to be able to discuss the question of disclosure. 10 During the lead-up to this investigation, we have 11 had disclosure on a daily basis. I will give you 12 a synopsis in a moment of quite what that disclosure has 13 been like. 14 There has been no time to consider or even properly 15 consider these documents. This relates to an inquiry or 16 investigation date that's been set up long ago. 17 I have listened and spoken to Ms Karmy-Jones before 18 this afternoon, I have spoken to her about the 19 disclosure problem, and we have tried to come to, if you 20 like, a united view. 21 The difficulty from the core participant survivor 22 perspective is that we don't, as yet, have a coherent 23 explanation for this difficulty with disclosure. 24 What we do have is a partial explanation for a large 25 part of these failures in disclosure that's been</p> <p style="text-align: center;">Page 88</p>

<p>1 referred to in the note for disclosure for the part 1 2 EBC case study hearing, a note dated 2 November 2017. 3 I am going to read the two relevant paragraphs. This is 4 a note from counsel to the inquiry. It is dated 5 2 November. In that sense, it is a product of its time, 6 because we have had disclosure problems after that date. 7 "Late disclosure", page 3, paragraph 10: 8 "The inquiry has received late disclosure of large 9 tranches of material from the English Benedictine 10 Congregation, including Downside Abbey and School and 11 CSAS. In relation to the EBC, including Downside Abbey 12 and School, since September we have received over 13 10,000 pages of material, predominantly from 14 Downside Abbey and School, and that was in response to 15 the inquiry's rule 9 request sent on 15 January 2016." 16 May I repeat that date: 15 January 2016. 17 The note goes on to say: 18 "The inquiry is working through this material as 19 quickly as possible but has inevitably been unable to 20 review and prepare it for disclosure to core 21 participants by 31 October." 22 Paragraph 11: 23 "We were notified in late October of yet further 24 material that has been identified as falling within the 25 scope of the inquiry's rule 9 request in January 2016.</p> <p style="text-align: center;">Page 89</p>	<p>1 consisting of material including child protection, the 2 Plenary Governor's meeting minutes and Safeguarding 3 Subcommittee meeting minutes created during the course 4 of 2017 and the resubmission of the 2016 versions of 5 the same. Counsel to the inquiry proposed Downside as 6 a selected institution by way of written submissions on 7 3 May 2017. Further rule 9 requests were issued to 8 another EBC institution. No further request was made to 9 Downside. 10 "On 28 July 2017, the chair to the inquiry confirmed 11 her decision that Downside be selected for the EBC case 12 study hearing in November/December 2017." 13 Now, the rest of this particular document sets out 14 a history of the way that apparently material has been 15 looked for, discovered within the grounds of the abbey, 16 essentially in cupboards, in long rooms, as it is 17 described, mixed up with catering supplies and mixed up 18 with documents that relate to other matters clearly not 19 relevant to this inquiry. 20 So it is a long list and long justification of why 21 there have been problems, it seems. 22 But the heart of this document appears to be at 23 those two paragraphs, 35 and 36, blame being placed by 24 the author of this document onto this inquiry, because 25 it seems that the way it is being presented is, "Well,</p> <p style="text-align: center;">Page 91</p>
<p>1 We do not yet have a page count for this material, but 2 will endeavour to review it and disclose any relevant 3 material to core participants as quickly as possible. 4 The inquiry has asked Downside Abbey and School to 5 prepare a witness statement explaining the manner in 6 which they have conducted searches to identify material 7 relevant to the inquiry's disclosure requests and the 8 reasons for this late discovery and disclosure of 9 relevant material. It is anticipated that this 10 statement will be disclosed to core participants by 11 17 November 2017." 12 So that was as matters stood on 2 November of this 13 year. 14 We then do have, indeed, on 17 November, a statement 15 from Dom Leo Davis dated 17 November of this year where 16 there is set out within that particular document the 17 response, if you like, regarding this late disclosure. 18 If I read from that document, paragraphs 35 and 36: 19 "In April 2017, it was agreed with the inquiry that 20 a further tranche of additional newly generated material 21 will be provided on 1 July 2017. As before, newly 22 generated material was identified by the school. A list 23 was sent on 23 June 2017. Further newly generated 24 material was disclosed on 1 August 2017 following the 25 receipt of a section 21 notice on 28 July 2017</p> <p style="text-align: center;">Page 90</p>	<p>1 we were chosen rather late as a case study and, 2 therefore, being chosen rather late as a case study, 3 what has happened is that we have only just been 4 therefore confronted with the reality that this is 5 actually going to be something we need to take seriously 6 and therefore it has all been a bit of a problem". 7 Now, none of that copes with the fact that the 8 initial request for documentation goes back 9 to January 2016. 10 What has happened since that time, if we just look 11 at last week, on 23 November 2017, 111 documents 12 relating to Ampleforth and Downside were put on the CP, 13 the core participants' database, Relativity, which is 14 the machinery that's used for the finding of documents 15 by core participants. This material related to the EBC, 16 Downside Abbey, various individuals, North Yorkshire 17 City Council, North Yorkshire Police and Ofsted. That's 18 the 23rd. 19 26 November 2017, 68 documents relating to 20 Ampleforth and Downside. A third witness statement on 21 behalf of Downside from Abbot Madden and, indeed, 22 another document from Dom Davis. 23 On Saturday, we had documents provided by counsel to 24 the inquiry setting out, if you like, schedules and 25 items that were going to be useful for this inquiry.</p> <p style="text-align: center;">Page 92</p>

<p>1 So, in reality, taking last week, going through to 2 this weekend, as just a snapshot, because it would take 3 too long to go through all of the other late 4 disclosures, core participants have had no chance 5 whatsoever to deal with this material. 6 Their representatives have been going through the 7 material as fast as we possibly can. We have learnt, 8 and I think I have got this right, from Ms Karmy-Jones 9 that there may be further material to come. We are left 10 in a position whereby we can only, it seems, try to do 11 our best in an awkward situation. I will come back to 12 the alternatives in a moment. 13 What would happen, madam, is some explanation from 14 the inquiry as to what has happened, because if the 15 English Benedictine Congregation, if Downside is right, 16 if, arguably, Ampleforth is included within the problems 17 with disclosure, and have in fact been providing 18 material late and that's because the inquiry hasn't been 19 chasing, hasn't been making it clear, that needs to be 20 disclosed, because we need to know what's going on. 21 If, on the other hand, the statement from Dom Davis 22 perhaps conceals a lack of urgency and a lack of care, 23 that, again, needs to be known. 24 Can we understand the obvious, because all too often 25 the lawyers around this particular room are used to</p> <p style="text-align: center;">Page 93</p>	<p>1 translates into questions that this inquiry should be 2 looking at. 3 What are your powers? Well, the powers of an 4 inquiry chair under the Inquiries Act 2005, section 21 5 are broad. You may by notice require a person to attend 6 at a time and place and produce evidence, and the 7 sanction in relation to non-compliance is set out at 8 section 35 of the Inquiries Act 2005. If a person is 9 guilty of an offence, if he fails, without reason or 10 excuse, to do anything that he is required to do by way 11 of a notice under section 21, your powers are broad. 12 They carry with it criminal sanction. So, again, when 13 we are saying that there is a problem with disclosure 14 and somebody is at fault here, the inquiry chair, with 15 respect, madam, needs, I'm afraid, to grasp the issue so 16 we can actually look at what has happened and consider 17 whether those types of sanctions ought to be put into 18 effect. 19 In other words, the inquiry chair has all of 20 the necessary powers to compel production of 21 documentation, and we would ask and remind that the 22 inquiry's original order or request for production of 23 material, being sent so long ago, 2016, it is hard to 24 understand why this material comes through so late. 25 What is a core participant? Under rule 5 of</p> <p style="text-align: center;">Page 95</p>
<p>1 dealing with, if you like, a trial or a tribunal. What 2 happens in relation to disclosure with a court or 3 tribunal in the normal form is that it reaches the stage 4 whereby the judge has to take control and has to issue 5 increasingly severe warnings in relation to what's going 6 to happen in a failure to disclose. In a civil case it 7 might be that that would be effected by way of costs, an 8 adjournment. In a criminal case, a judge eventually 9 would reach the point whereby severe sanctions would be 10 put in place and it starts to get into the question of 11 an evidential point. Because the late service of 12 material by a body that's under examination before an 13 inquiry in this case, or a tribunal or court, may in 14 fact demonstrate an evidential point that the inquiry in 15 this situation should look at: is there a reason that 16 the EBC is wanting to keep back material? Is this 17 inquiry being gamed by the EBC, by Downside, by the late 18 disclosure? Is what is going on here a deliberate act? 19 These are evidential points that need to be 20 considered. 21 So when we stand up and say this morning we need to 22 have good time so we can make these points about 23 disclosure, we are not just doing it because we are 24 interested in the paper clips and making sure that 25 everything has been filed in good order. It actually</p> <p style="text-align: center;">Page 94</p>	<p>1 the inquiry rules, it relates to a person who has played 2 or may have played a direct and significant role in 3 relation to the matters to which the inquiry relates. 4 Those designated as core participants will be provided 5 with electronic disclosure of evidence relevant to the 6 particular subject matter of the inquiry. They have the 7 right to make opening and closing statements. They have 8 the right to suggest lines of questioning. They have 9 the right to apply to the inquiry panel to ask questions 10 of witnesses during a hearing. 11 Do you mind if I ask a rhetorical question -- 12 I don't expect an answer -- to say this: how exactly is 13 that going to be done with such late disclosure? How is 14 a core participant meant to exercise those rights? How 15 are the legal representatives meant to advise their core 16 participant clients as to the different aspects and ways 17 that we can potentially deal with matters on their 18 behalf? Have you considered when core participants 19 actually get this material? Because we note, of course, 20 that the inquiry, understandably, is saying, "Well, hang 21 on, there is a problem here with disclosure to us", but 22 let's look at, in fact, the knock-on effect of 23 the disclosure to the core participant. The core 24 participant doesn't get it, nor their representative, 25 does not get this material when the inquiry gets it. So</p> <p style="text-align: center;">Page 96</p>

<p>1 the inquiry gets this somewhat in advance. They have to 2 do their job, understandably, and we accept it must be 3 done, of redaction and filter in relation to this 4 material. 5 So the core participant is very much at the end of 6 the list in terms of disclosure. 7 Not only that, the core participant has, through 8 their legal representatives, to comply with timetables 9 in making submissions, in making requests to question 10 witnesses. All of these are timetables that compress 11 the ability of core participants and their 12 representatives to deal with, take on board, and 13 actually consider the material, let alone make such 14 requests, and we can see the effect of it that has 15 happened so far in relation to this investigation, in 16 that the four days which was originally set as being the 17 period of time in order to make such submissions has now 18 been narrowed down to two days, but it is the core 19 participants who are given the least amount of time to 20 handle the material, the least amount of time to 21 actually look at it and the least amount of time to act 22 on it. Guess what: it is the core participant survivors 23 who have in the past been ignored, let down by judicial 24 tribunals, let down sometimes by lawyers, let down and 25 abused by the institutions in which they placed their</p> <p style="text-align: center;">Page 97</p>	<p>1 Now, it has already been mentioned in submissions 2 already made that we therefore suggest that when it 3 comes to this investigation the fetters and the rules 4 that are placed upon core participants and their 5 participation by way of applications with days in 6 advance notice need to be looked at with considerable 7 care. This is going to be an investigation over these 8 next three weeks whereby we, on behalf of core 9 participants, will react as fast as we possibly can. 10 But if it comes down to it, if we are making 11 applications either orally or in writing rather close to 12 hearing times, then, frankly, so be it. 13 May I then make one last point? If you feel I have 14 been hard upon the inquiry panel about your powers, 15 madam, and about the exercise of those powers, this, if 16 I recall correctly, is one of the early of the hearings, 17 the public hearings, that this inquiry is going to 18 conduct. We are involved, myself and Mr Enright, in 19 other hearings that will take place then in the inquiry 20 investigation as it goes forward. I have already made 21 submissions about the effect of late disclosure at 22 preliminary hearings. The fact of the matter is that 23 the inquiry chair, as well as everything else that you 24 need to do, also needs to make sure that when directions 25 are given about disclosure and about disclosure of</p> <p style="text-align: center;">Page 99</p>
<p>1 trust in this case and went to their schools. 2 It is quite hard, from the core participant survivor 3 perspective, to learn, as it seems we are being told by 4 counsel to the inquiry, that this in fact relates to 5 late disclosure from those very institutions that are 6 under examination within this part of the investigation. 7 What's the practical end result? Well, it seems 8 that we are left with nothing else other than being able 9 to just say to this inquiry that what we will do is 10 battle on regardless. We could of course apply for an 11 adjournment. We could ask for this investigation to be 12 taken out of this time slot and be put into whatever 13 time would be available next year. But there are core 14 participants that have made plans to give evidence 15 before this inquiry during this period of time. They 16 have made personal plans. They have discussed matters 17 with their employers, with their families and they have 18 made travel arrangements, and they are facing coming 19 along to this investigation and this inquiry to talk 20 about what happened to them in the past. It would, we 21 submit, be directly unfair to those core participants to 22 apply for an adjournment to take this matter out, yet it 23 is also those core participants, some of them witnesses 24 before this part of the investigation, that have got the 25 problem of coping with the failures of disclosure.</p> <p style="text-align: center;">Page 98</p>	<p>1 material from institutions to this inquiry, that those 2 directions are adhered to. 3 Now, all of you on the panel have had dealings with 4 courts and tribunals in your work. One of your panel 5 members, Mr Frank, has got direct dealings with the 6 court over many years of service before the courts 7 working as a barrister and knows all too well how 8 important it is to get disclosure right. What must be 9 done, we respectfully suggest, is that timetables that 10 are set for disclosure of material must be kept to, 11 observed with rigour. 12 THE CHAIR: Thank you, Mr Stein. You have made some very 13 important points. Thank you very much. I would like to 14 turn to Ms Gallafent. Do you have anything to say in 15 response to the issues or any explanation for the late 16 disclosure? 17 Submissions by MS GALLAFENT 18 MS GALLAFENT: I'm very grateful for the opportunity. 19 I would like to make four points, if I may. 20 The first is that of course a witness statement has 21 been provided by Dom Leo Maidlow Davis, the prior 22 administrator of Downside, to explain at length and in 23 detail the reason for the late disclosure. That witness 24 statement, can I emphasise, does not seek to place blame 25 on the inquiry, it simply sets out the facts of how we</p> <p style="text-align: center;">Page 100</p>

<p>1 come to be where we are today and why disclosure was 2 made in the way that it was. 3 We are aren't seeking to blame the inquiry. We 4 aren't seeking to exculpate ourselves. The position is 5 simply set out frankly and on the facts. 6 Paragraphs 37 to 58, which Mr Stein didn't read out, 7 explain the reasons why disclosure was made 8 subsequently. Can I be clear: the second point is, the 9 EBC and Downside has adopted a broad approach to 10 relevance, as has always been urged upon all core 11 participants. So when one refers to numbers of 10,000 12 documents, with respect, a number of those documents may 13 be of tangential, at best, relevance, but we have 14 disclosed the documents that, for example, would be hit 15 on an internet search term using an email sift. We have 16 done that because we understood that's how the inquiry 17 wished to approach the matter of disclosure. That may 18 result in the inquiry receiving more disclosure than 19 otherwise, but we have done that because that's our 20 understanding of what is required. 21 It is suggested that Dom Leo's witness statement 22 might conceal a lack of urgency. My starting point is 23 we don't say it conceals anything, it simply tells the 24 inquiry what has happened. It is of course a matter for 25 the inquiry as to what view it takes of that</p> <p style="text-align: center;">Page 101</p>	<p>1 suggested, that we have in any way failed to comply with 2 the section 21 notice. On the contrary, it is us who 3 have requested the section 21 notices with which we have 4 then complied invariably in the speediest possible way. 5 So we say there is simply, again, no basis for 6 a suggestion that this inquiry should, in relation to 7 the disclosure made by Downside, seek to exercise any 8 more punitive sanction under section 35 or in any other 9 way. We regret, of course, that it has not been 10 possible to make disclosure sooner and in a more sequent 11 fashion, but an explanation for that has been provided 12 and it will be for the inquiry to consider whether that 13 explanation conceals, as it were, as Mr Stein says, or 14 is simply the facts of the matter as set out before you. 15 I don't want to add to Dom Leo's statement, I don't 16 think it would be right to do so in those circumstances, 17 because, ultimately, it will be a question for the 18 inquiry to hear from him in relation to the steps that 19 were taken. Those are the four points I would like to 20 make, if I may. 21 THE CHAIR: Thank you. Mr Kelly? 22 Submissions by MR KELLY 23 MR KELLY: Mr Stein has said, if I heard him correctly, that 24 Ampleforth were included in the problem relating to 25 discovery. That simply is not right. We had completed</p> <p style="text-align: center;">Page 103</p>
<p>1 explanation. But of course Dom Leo will be giving 2 evidence during the course of this hearing and, if the 3 inquiry have questions for him about the process of 4 disclosure, no doubt those questions will be raised and 5 that can be explored with him. But what one simply 6 shouldn't and couldn't properly do at this stage is to 7 leap to an assumption that because disclosure has been 8 made in a series of tranches over many months, that it 9 therefore follows that Downside Abbey and School are 10 trying to hide something from the inquiry. We say that 11 simply is wholly unjustified. 12 The final point I would make is in relation to the 13 suggestion made by Mr Stein that this inquiry should 14 exercise its powers under section 35 in relation to 15 orders made under section 21. Well, the inquiry will be 16 very familiar with the process as it exists. We are 17 asked to make disclosure and what we have done, 18 consistently, we say, with our obligations and in 19 particular our Data Protection Act obligations, is we 20 provide a list of the documents in such way as the 21 inquiry can then make a section 21 order such that we 22 can then disclose the documents to the inquiry without 23 concerns arising in relation to confidentiality and data 24 protection issues. 25 It has never been the case, and it has never been</p> <p style="text-align: center;">Page 102</p>	<p>1 discovery by July 2016. The request was made back 2 in January. We had in place a team which did complete 3 by then. Subsequently, the inquiry asked us for further 4 documents which we promptly supplied. 5 I therefore utterly reject the suggestion -- I'm 6 sure it was put in perhaps mistakenly -- that Ampleforth 7 in any way were tardy on disclosure. We have not been. 8 We have disclosed fully. We have given all the 9 documents. We were asked for additional documents. We 10 have supplied them promptly. 11 THE CHAIR: Thank you, Mr Kelly. 12 Reply submissions by MS KARMY-JONES 13 MS KARMY-JONES: In respect of that last point, my 14 understanding is Mr Kelly is quite correct on that 15 point. Ampleforth have not been tardy, certainly not to 16 any great extent. 17 I make five points. 18 First of all, the last batch of disclosure from 19 Kingsley Napley who represent Downside and the English 20 Benedictine Congregation, was on 31 October. 21 Secondly, in terms of exercising powers, a point 22 that was made by my learned friend Mr Stein QC, it is of 23 course difficult to exercise powers when one is given 24 the understanding that disclosure has been made and is 25 complete. That was our initial understanding, and the</p> <p style="text-align: center;">Page 104</p>

<p>1 inquiry did not realise that further material existed. 2 We have, therefore, come full circle to the point I made 3 at the outset, which is that, in reality, the inquiry 4 rely on core participants to make timely responses to 5 requests. That is not just a disclosure response, but 6 there is a duty with that response to do proper 7 investigations and enquiries in order that all material 8 is identified and disclosed to us. 9 Thirdly, the Leo Maidlow Davis statement was not 10 volunteered. I simply make that point. It was 11 requested by the inquiry, precisely so as to try to 12 establish what the issues had been. 13 Finally, when late disclosure was made to the 14 inquiry, the solicitors to the inquiry and counsel to 15 the inquiry went to great lengths to see whether we 16 could identify the most important of the documents to 17 see that those important documents were redacted and 18 ciphered first, that they were reviewed first, that they 19 were disclosed first. There was a great deal of 20 material that was wholly irrelevant that was sent to us 21 within which there were some key documents and we have 22 gone to great efforts to ensure that the relevant 23 material goes out to core participants in as timely 24 a manner as possible. 25 May I turn to the other matter that I indicated</p> <p style="text-align: center;">Page 105</p>	<p>1 this point. It was only earlier this month, on 2 22 November, that Brabners made a request for an 3 increase in the hours awarded to them, and that was 4 dealt with on the very same day, very swiftly. 5 We understand that those hours have not in fact been 6 used, so we are surprised to hear the suggestion that 7 they have had insufficient hours to deal with the task 8 of preparation for this hearing, and we reject the 9 submissions that have been advanced on their behalf. 10 That's all that I wish to deal with. 11 THE CHAIR: Thank you, Ms Karmy-Jones. We will take this 12 opportunity to withdraw for 15 minutes. Thank you. 13 (2.35 pm) 14 (A short break) 15 (2.53 pm) 16 THE CHAIR: The panel and I have had the opportunity for 17 a short discussion on the matters just raised, and of 18 course we entirely agree that the matter of disclosure 19 is extremely important, as so many people have already 20 stated. 21 If it comes late to the inquiry, it therefore goes 22 late to core participants, and that's a matter of very 23 great regret. 24 We have heard from Ms Gallafent an explanation, but 25 it doesn't alter the fact that it is a significant</p> <p style="text-align: center;">Page 107</p>
<p>1 I would be dealing with, which is Ms Griffiths' remarks 2 about the approach taken to the section 40 funding made 3 available to her clients. 4 As, chair, you and the panel members will know, 5 section 40 enables you, chair, to make an award for 6 legal expenses to core participants, and the parameters 7 of the award that you may make, including the number of 8 hours of work, is set by determination made in this case 9 by the Home Secretary. 10 On 6 September, you did make an award, and a letter 11 was sent out to the solicitors, Brabners, on 13 October. 12 In April, there was some correspondence between the 13 inquiry and Brabners where a variation was sought and 14 their request was granted. 15 In June, Brabners wrote to the inquiry saying that 16 they believed the number of hours they had been 17 allocated were insufficient. The solicitor to the 18 inquiry team wrote back the same day and asked the 19 solicitors, Brabners, to provide further information. 20 The solicitors to the inquiry also had 21 correspondence with Brabners in October and again asked 22 for them to provide the inquiry with a number of hours 23 that they considered their team required. 24 On 27 October, there was a further email from the 25 solicitors to the inquiry asking Brabners to clarify</p> <p style="text-align: center;">Page 106</p>	<p>1 inconvenience to all of us preparing for the inquiry's 2 hearings. 3 Whether any blame can be attributed to an individual 4 or an institution may be a matter of evidence, and no 5 doubt we will consider that if it arises in the course 6 of these hearings. 7 Finally on this point, I want to say that we do wish 8 to make the point that we do not want to preclude or 9 deter people bringing forward relevant material outwith 10 the agreed framework. 11 As to the issue of questions, we will of course be 12 as flexible as possible in considering any applications 13 for questions outwith the usual time period. 14 Is there anything anyone else wishes to raise on 15 these matters? 16 MS KARMY-JONES: Chair, members of the panel, I think that 17 concludes all the matters that the parties wished to 18 raise before you before we embark on the evidence 19 tomorrow. 20 I have outlined what to expect tomorrow, so it may 21 be that that will be the conclusion of today's 22 proceedings. 23 MS GRIFFITHS: Can I mention this one point, ma'am: the 24 question of undertakings and protections. I had in 25 mind -- which doesn't necessarily apply to my clients --</p> <p style="text-align: center;">Page 108</p>

<p>1 the Waterhouse undertaking which is reported at 2 paragraph 1.08 of the Lost in Care Report. I will read 3 it out. It is only four lines: 4 "Without going into unnecessary detail, it is 5 appropriate to mention that two decisions of 6 considerable importance to our deliberations were made 7 at an early stage. Firstly, the Attorney General 8 authorised the tribunal to say that anything that any 9 witness said in evidence before the inquiry would not be 10 used in evidence against him or her in any criminal 11 proceedings, except in relation to any offence of 12 perjury or perverting the course of justice." 13 I don't know whether the inquiry -- I don't think 14 they have -- has made any such suggestions in this case, 15 and whether there should be or shouldn't be, I think 16 there needs to be a discussion about that fact, as to 17 whether any protections are required. 18 THE CHAIR: Thank you, Ms Griffiths. Ms Karmy-Jones, do you 19 have anything to say? 20 MS KARMY-JONES: Simply that that is a different matter than 21 that which appeared to be raised during the speech that 22 was given before the lunchtime adjournment. It is 23 a matter that we will discuss with Ms Griffiths when we 24 rise. 25 THE CHAIR: Thank you, Ms Karmy-Jones. We will now adjourn</p> <p style="text-align: center;">Page 109</p>	<p>1 2 Opening submissions by MS GRIFFITHS76 3 4 Discussion re disclosure85 5 6 Submissions by MS KARMY-JONES85 7 8 Submissions by MR STEIN88 9 10 Submissions by MS GALLAFENT100 11 12 Submissions by MR KELLY103 13 14 Reply submissions by MS KARMY-JONES104 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 111</p>
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<p>1 until tomorrow. 2 (2.57 pm) 3 (The hearing was adjourned to 4 Tuesday, 28 November 2017 at 10.30 am) 5 6 I N D E X 7 8 Welcome by THE CHAIR1 9 10 Opening statement by MS KARMY-JONES4 11 12 Opening submissions by MS8 13 KARMY-JONES 14 15 Opening submissions by MR SCORER31 16 17 Opening submissions by MR ENRIGHT41 18 19 Opening submissions by MR CHAPMAN54 20 21 Opening submissions by MR RUCK KEENE57 22 23 Opening submissions by MR KELLY61 24 25 Opening submissions by MS GALLAFENT70</p> <p style="text-align: center;">Page 110</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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