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| <p>1 Wednesday, 11 July 2018 2 (10.30 am) 3 Welcome and opening remarks by THE CHAIR 4 THE CHAIR: Good morning, everyone, and welcome to Day 3 of 5 the first substantive hearing of Children in Custodial 6 Institutions investigation. 7 Today the inquiry will hear witness evidence from 8 individuals with specialist knowledge and experience in 9 the areas under consideration. 10 If there are no matters to deal with prior to 11 hearing the witnesses, I will invite counsel to the 12 inquiry to call the first witness. 13 MS HILL: Good morning, chair. There are no preliminary 14 matters as far as I'm aware, so I will call, please, 15 Dr Laura Janes. 16 DR LAURA JANES (affirmed) 17 Examination by MS HILL 18 MS HILL: Thank you very much, Dr Janes. Take a seat. 19 Dr Janes, you have given the inquiry two witness 20 statements -- one dated 4 May, which ends HWL000001, and 21 one dated 5 July, INQ001766. 22 Chair, with your permission, I adduce in full both 23 of those witness statements from Dr Janes. 24 Dr Janes, thank you very much. Can I begin, please, 25 without I hope embarrassing you, by confirming you are</p> <p style="text-align: center;">Page 1</p> | <p>1 oldest penal reform charity in the UK, has over 12,000 2 members, including prisoners and their families, 3 criminal justice professionals and academics and, just 4 trying to summarise it, it has over the years undertaken 5 a considerable amount of policy and research work 6 relating to children. 7 A. That is correct. 8 Q. Just by way of example, there is work that has been done 9 following on from the Carlile Inquiry and, perhaps that 10 will become particularly relevant for this set of 11 proceedings, has done work specifically around the issue 12 of sexual development of children in prison? 13 A. Yes, that's correct. 14 Q. I will come, Dr Janes, in due course, to ask you some 15 questions about The Howard League Commission on Sex in 16 Prison. 17 Is there anything else, Dr Janes, about your 18 background or that of The Howard League that you think 19 I need to extract from you? 20 A. No, I think it is all there in the statement. 21 Q. One of the significant legal developments that we will 22 come to hear about throughout the course of these 23 hearings, though, is that the Children Act now applies 24 to children in custody as a result of litigation brought 25 by The Howard League; is that correct?</p> <p style="text-align: center;">Page 3</p> |
| <p>1 the legal director at The Howard League for Penal 2 Reform? 3 A. That is correct. 4 Q. You set out in your witness statement, at paragraphs 1.1 5 and onwards, a little bit about both your own background 6 and about The Howard League? 7 A. That is correct. 8 Q. I can perhaps try and summarise it for the chair and 9 panel and the public in this way, that you, yourself, 10 are a solicitor? 11 A. Yes. 12 Q. You have a professional doctorate in youth justice? 13 A. Yes, that's correct. 14 Q. The particular issue that you looked at in your thesis 15 was the experience of children with histories of harmful 16 sexual behaviour in the criminal justice system? 17 A. That is correct, yes. 18 Q. As legal director, you conduct direct casework involving 19 children in custody and you oversee the policy and 20 participation work of the organisation? 21 A. Of the legal team, yes. 22 Q. You are, I think, though, authorised to give this 23 statement effectively on behalf of The Howard League? 24 A. Yes, I am. 25 Q. For anybody who doesn't know, The Howard League is the</p> <p style="text-align: center;">Page 2</p> | <p>1 A. That is correct. 2 Q. It is your understanding -- is this right? -- that that 3 development led to specific child protection policies 4 and procedures being introduced into prisons? 5 A. Yes. 6 Q. I think, if I am right, it was that development that led 7 to the creation of your legal team and particular 8 contact with children? 9 A. Yes, that's correct. 10 Q. In order to provide evidence to the inquiry, you have, 11 I think, liaised with various colleagues within 12 The Howard League, and I think you have also looked, 13 have you, at particular case files for children who have 14 contacted The Howard League? 15 A. Yes, and calls that are made to The Howard League. They 16 may not be full cases, but inquiries and calls that are 17 made. 18 Q. The first substantive topic I would like to ask you 19 about is the inherent risk of custody. You have said in 20 your first witness statement at paragraph 3.1 that the 21 starting point is that prison is inherently risky and it 22 will be impossible to eradicate the risk of sexual abuse 23 for children in penal detention. Can you perhaps expand 24 on that a little bit, Dr Janes, and help the panel 25 understand what you mean by that?</p> <p style="text-align: center;">Page 4</p> |

1 **A. Yes. It is just, in my experience from talking to**
 2 **children, a fact of detention that children are put in**
 3 **positions where they are feeling vulnerable, isolated,**
 4 **lonely and afraid, and it seems to me that that mixture**
 5 **creates conditions where they are vulnerable, where**
 6 **there is an inherent power imbalance, which of course**
 7 **makes them vulnerable to risk of abuse.**
 8 Q. Does it flow from that, Dr Janes, that while there might
 9 always be a power imbalance for anybody in custody, it
 10 is particularly acute for a child in custody?
 11 **A. Absolutely. The vulnerability of children inherently as**
 12 **opposed to the particular vulnerabilities on top, as it**
 13 **were, that many children in custody face, means of**
 14 **course they are still developing, as opposed -- I'm not**
 15 **a psychologist, but as a matter of logic, they are not**
 16 **fully formed and they are still developing, finding**
 17 **their way in the world, and coming to understand**
 18 **themselves and learning about what is okay and what is**
 19 **not okay.**
 20 Q. You have made it clear in your witness statement that
 21 The Howard League has long advocated for a penal policy
 22 that detains only a very small number of children, and
 23 I think we will hear, over time, the population of
 24 children in custody has dropped?
 25 **A. Yes.**

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1 Q. But does The Howard League consider that the population
 2 of children in custody should continue to fall?
 3 **A. Absolutely. We still lock up many more children than**
 4 **many other countries, comparable countries, in western**
 5 **Europe. The prison populations in other countries is**
 6 **also falling. So the job is not done. There are many**
 7 **children -- for example, the latest figures from April**
 8 **of this year show that over 200 -- around 250, I think**
 9 **it is 257, children are on remand, as of April this**
 10 **year, out of the 940. Now, we know that the majority of**
 11 **children who are on remand will go on not to get**
 12 **a custodial sentence. So that suggests that almost**
 13 **a third of the children in prison are on remand but may**
 14 **not end up with a custodial sentence, suggesting they**
 15 **really ought not to be there.**
 16 Q. Do you have any proposals for how, in practice, the
 17 number of children in custody might be reduced? For
 18 example, sentencing guidelines or other methods of
 19 custody -- forgive me, other methods of sentencing, what
 20 do you think are the most effective ways to reduce the
 21 number of children in custody?
 22 **A. I think the point I just made about remand is extremely**
 23 **important, because that immediately could see**
 24 **a significant reduction in the current population, if we**
 25 **were to exercise much, much greater caution in respect**

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1 **of children being remanded to custody, because that**
 2 **deals with a third of the current population, almost,**
 3 **and I think there are lots of ways, and certainly within**
 4 **the casework that we do day in and day out at The Howard**
 5 **League, there are many instances where children are**
 6 **remanded to custody simply because there isn't an**
 7 **appropriate provision for them in the community, when in**
 8 **fact they will almost always be entitled to such**
 9 **provision with the help of their home Social Services**
 10 **putting a suitable package of support in place.**
 11 Q. So custody is being used because there is not community
 12 provision available?
 13 **A. Not because it is not available, it is not being made**
 14 **available.**
 15 Q. Not being made available?
 16 **A. There is a sufficiency duty under the Children Act which**
 17 **requires local authorities to have sufficient**
 18 **accommodation and support available for children, so it**
 19 **is not being made available.**
 20 Q. Made available, forgive me.
 21 **A. Yes.**
 22 Q. Thank you.
 23 **A. So that's one thing. In terms of other issues, in terms**
 24 **of reducing the child prison population, you will be**
 25 **aware that the length of sentence has increased hugely**

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1 **over time. The average custodial length now is at,**
 2 **I believe, around 16 months, which is a big increase.**
 3 Q. For children?
 4 **A. Yes, for children. A big increase over time. And so**
 5 **this is part of a general trend in respect of**
 6 **sentencing. There is some very good research on that**
 7 **about the increase in sentence length across all**
 8 **sentencing practice, but it is also affecting children,**
 9 **whereas there ought to be a very bright line keeping**
 10 **children down, as it were.**
 11 **So, of course, having children in for longer**
 12 **inflates the population. This new Sentencing Council**
 13 **guidance, which was revised and issued in June last**
 14 **year -- it went into force in June last year -- is very**
 15 **good in many ways. It is very strong and it's**
 16 **principled guidance. I think the problem is, when you**
 17 **have principled guidance, making sure that sentences**
 18 **follow it, because it doesn't give you a neat number to**
 19 **follow. So quite often what happens is sentences will**
 20 **gravitate to an offence-specific number and then work**
 21 **backwards rather than working from first principles as**
 22 **to what the child really ought to have in accordance**
 23 **with the sentencing principles.**
 24 Q. And the sentencing principles were set by the --
 25 **A. Sentencing Council.**

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1 Q. The Sentencing Council. They relate specifically to
 2 children?
 3 **A. Yes. So the overarching sentencing guideline for**
 4 **children and young people in force as of June 2017.**
 5 Q. Thank you.
 6 **A. Conversely, I am going to say something that's at the**
 7 **other end of the spectrum, which is, we have had lots of**
 8 **talk from the Lord Chancellor and others about reducing**
 9 **the prevalence of short sentences. Actually, we know**
 10 **that short sentences don't work, and there is still**
 11 **quite a number of children in custody on very short**
 12 **sentences. I am regularly dealing with young children**
 13 **on a four-month DTO where they come in for four months,**
 14 **they will be released automatically after two months,**
 15 **everything is disrupted, and of course we know change**
 16 **can be particularly difficult for children.**
 17 **So in The Howard League's view, actually, the**
 18 **detention and training order which created it when it**
 19 **was first introduced, the proliferation in the number of**
 20 **children going to prison, actually ought to be**
 21 **abolished.**
 22 Q. We know from statistics, Dr Janes, that the number of
 23 white children in custody has dropped and the number of
 24 black and Asian minority ethnic children has also
 25 dropped but by a lesser figure. Does The Howard League

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1 have a view on why that is the case and what to do about
 2 the overrepresentation of BAME children in custody?
 3 **A. Yes. You will be aware that last year David Lammy**
 4 **produced his report, shining a light on the**
 5 **disproportionality within the criminal justice system as**
 6 **a whole and focusing on children. Since then, the**
 7 **proportion of BAME children in custody has increased**
 8 **even further. The latest data from April is 48 per cent**
 9 **of children in prison are from BAME backgrounds. So**
 10 **it's a huge issue.**
 11 **I don't see any positive action being taken at the**
 12 **moment, and I think it's an incredibly important issue.**
 13 **From The Howard League's perspective, we have done**
 14 **a lot of work looking at child arrests, and actually**
 15 **I would like to come back to that in a moment as another**
 16 **important way of reducing the child prison population,**
 17 **if you don't mind, but we know that roughly around**
 18 **23 per cent of child arrests are for BAME children, yet**
 19 **the custodial population jumps up to 48 per cent. So**
 20 **something is happening between the point of arrest and**
 21 **the point of being in prison. So it seems to us that**
 22 **it's very important then to look at CPS charging**
 23 **decisions and then look at sentencing practice.**
 24 **It does seem to us that one of the ways in which we**
 25 **might deal with potential unconscious bias or even**

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1 **conscious bias is to start to track sentencing and**
 2 **charging decisions so that those responsible for making**
 3 **those decisions are uniquely identified and the**
 4 **ethnicity of those they are making the decisions about**
 5 **is also tracked so we can spot trends and differences.**
 6 Q. You have set out in your witness statement a number of
 7 observations about how rare it is for children to report
 8 abuse, and you have talked in particular about certain
 9 barriers to reporting that may be present in the
 10 custodial environment that might increase the risk of
 11 abuse and indeed the risk of not reporting. Can you
 12 just summarise, please, for the panel, what your
 13 evidence is about this topic?
 14 **A. As you can see from my witness statement, we have not**
 15 **had a large number of children coming to us saying that**
 16 **they have experienced sexual abuse in custody. But it**
 17 **seems --**
 18 Q. Just to interject there, Dr Janes, at 5.2 of your
 19 witness statement you say it is only three cases, is
 20 that right, that a child has explicitly raised a sexual
 21 abuse allegation with The Howard League?
 22 **A. Yes, and that's out of six where it's come to our**
 23 **attention in total, and that's over a significant**
 24 **period. But we can't take that as an indicator that it**
 25 **doesn't happen. But it certainly can be taken as an**

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1 **indicator that children don't readily come forward with**
 2 **that information.**
 3 **Now, again, having spoken to older children who have**
 4 **been through the system, the obvious reason for that --**
 5 **well, there are a number of obvious reasons for that.**
 6 **First of all, children don't always recognise abuse.**
 7 **One child put it to me, "You don't know whether it's you**
 8 **what's done something wrong or what", so there's a fear**
 9 **there and a lack of knowledge and understanding about**
 10 **what is abuse and whether or not it's your fault, and**
 11 **I think -- so there is a huge education issue there.**
 12 Q. You have given, just to benchmark it later for the
 13 panel, perhaps, quite a bit of information about this
 14 lack of understanding of what sexual abuse is at
 15 paragraph 6.1 and onwards of your statement?
 16 **A. Yes, and I think I have also dealt with it in my second**
 17 **statement as well --**
 18 Q. Yes.
 19 **A. -- in a little bit more detail. I think partly -- in**
 20 **particular, it comes out in sharp relief when children**
 21 **have been convicted of harmful sexual behaviour**
 22 **themselves, and sometimes what is and isn't allowed does**
 23 **sometimes seem to be counterintuitive. And then one has**
 24 **to contrast that against a sort of culture of**
 25 **hypersexualisation, not just in the wider community but**

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1 also in custody.
 2 So if you are on a wing, you will hear sexually
 3 abusive comments shouted out through the hatches, as it
 4 were, very regularly. You know, it's part of everyday
 5 sound in custody. So it's something then that can
 6 become -- can start to feel normal.
 7 Q. You have described some of these phrases that you
 8 yourself have heard while being on segregation units,
 9 and you have talked about how the reality for most
 10 teenage boys aged 15 to 17 in any setting is that they
 11 experience particularly high levels of arousal, but
 12 obviously these young people are detained and so there
 13 are limits on that. Is there anything else that you
 14 would like to say about that? Limits on how they can
 15 follow through with any natural desires?
 16 A. Yes. Again, it all feels very intuitive stuff, but the
 17 culture is ultimately in custody a punitive culture and
 18 it is an inconsistent culture because you have not got
 19 consistent parenting. So there are obviously no
 20 authorised sexual outlets, there's no opportunity to
 21 develop relationships. Occasionally, you will see in
 22 secure children's homes where there are mixed groups
 23 that sometimes children will sometimes write letters to
 24 each other and it's quite -- probably the only
 25 experience in modern life I come across of, you know,

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1 it's a literally romantic culture. You don't ever see
 2 children actually writing letters. Again, actually,
 3 that's the only outlet as well. You have got these
 4 15-/16-/17-year-old boys who, if they want to, you know,
 5 maintain a relationship outside of custody, they will be
 6 writing letters to their girlfriends and, again, it is
 7 very different from what's normal sexual development in
 8 the community.
 9 But in terms of physical contact, children are quite
 10 literally untouched in any authorised way. Sometimes
 11 I have even had situations where parents have called in
 12 a state of distress saying they are going to meet their
 13 child for a sentence planning meeting and they have been
 14 told they won't be able to hug their child.
 15 So there is this totally artificial state of
 16 untouchedness, whether it is sexual or just sort of
 17 warm, as it were, and then there's also a punitive
 18 culture, so that if children are found to be touching,
 19 they may find themselves subject to disciplinary
 20 procedures. If they are found to be masturbating --
 21 because of course they don't have a level of privacy
 22 that most teenagers would have, people can walk in,
 23 people can open the flap and look into their rooms at
 24 any time. I have known children to be disciplined for
 25 masturbating when a member of staff has walked into the

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1 room. So it creates a very punitive, secretive
 2 atmosphere around their sexuality which cannot be
 3 healthy.
 4 Q. I think two particular further points you have perhaps
 5 dealt with in your statement, that at least some
 6 information has been given to you to suggest that high
 7 levels of violence in the children's secure estate might
 8 in part be to do with sexual frustration. You have
 9 explained a little bit about that. Secondly, I think
 10 you have said that, because of this lack of a healthy
 11 outlet for children to express themselves, it becomes
 12 even harder for children to know what is normal and that
 13 that might feed into what is abusive.
 14 A. Yes.
 15 Q. Is that a fair summary of some other things you have
 16 said here?
 17 A. Yes, I think that is a fair summary. I think the
 18 well-established sort of connection between sex and
 19 power and control for children who are living in
 20 a completely coercive environment sort of stands to
 21 reason.
 22 Q. Help us a little bit with what you said about sex
 23 education for children in the secure estate.
 24 A. In terms of sex education, as in the sort of people
 25 referred to as the nuts and bolts or plumbing, as it

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1 were, that is still sort of part of the curriculum, but
 2 of course the curriculum across the secure estate is
 3 different from the curriculum outside.
 4 So while there is a requirement, and I think it is
 5 set out in our briefing paper on healthy sexual
 6 development for young people, for children to get that
 7 nuts and bolts there, I guess it's sort of variable and
 8 it will depend. So some of these secure children's
 9 homes, in my experience, have very good educational
 10 provision, and of course it has to be on a rolling basis
 11 because you've got a very transient population.
 12 But in my experience, the kind of information and
 13 education that children really need in order to be able
 14 to understand what is okay and what isn't okay,
 15 understand their own sexual development and identity, is
 16 largely absent. In fact, the only time I have ever
 17 really come across that in my own experience is where
 18 children with harmful sexual behaviour have been
 19 given -- and it is quite hard for them to get it --
 20 therapeutic intervention. Organisations like the
 21 Lucy Faithfull who used to have the contract for
 22 providing sexual intervention for children with harmful
 23 sexual behaviour or GMP, another organisation that's
 24 done that in some secure settings, provide a safe space
 25 for children to think about these things, to talk about

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| <p>1 them, talk about their own sexual identity. It is 2 also -- 3 Q. Sorry, just to interject on that particular initiative, 4 the Lucy Faithfull Foundation contract, I think you said 5 that has not been renewed as far as you know, so there 6 is not a standardised service for that sort of work now; 7 is that right? 8 A. That finished some years ago, and so there is no 9 standardised service, as far as I'm aware, for children 10 with harmful sexual behaviour. 11 Q. Although there is evidence that that sort of programme, 12 or that specific programme, did reduce the risk of them 13 re-offending? 14 A. So we know that the -- what we do know about the risk of 15 reducing child sexual offending is that, generally, the 16 models that seem to work best are good live-space models 17 and that's the model that they did. So children, you 18 know, the risk of sexual offending is much lower than 19 other types of offending and, also, if children receive 20 intervention, it's even lower than that. 21 But I think the critical thing is, children don't 22 routinely receive any education about the relationship 23 between sex and the law. So they won't understand 24 necessarily what is lawful and what isn't. That's 25 highly relevant for children where you've got the issues</p> <p style="text-align: center;">Page 17</p> | <p>1 come into custody at and try to make myself work with 2 them in such a way as to think about what their needs 3 would be at that age, and actually that works. So 4 I think it was an insightful comment. It seems to work. 5 Q. I think you have said that the consequence of that might 6 be that when they are then later, perhaps, having first 7 experiences, their partner is expecting them to be more 8 mature than they actually are, but secondly, and perhaps 9 more pertinently for these proceedings, you say this to 10 conclude: 11 "As long as children are deprived of an appropriate 12 education, guidance and opportunities to learn about 13 healthy sexual development, it will be inevitable that 14 their understanding of what is and is not acceptable 15 will be distorted or inadequate." 16 A. Unfortunately, I think that's probably right. I think 17 that children come out knowing so little and feeling so 18 at sea in the world of sex and relationships that 19 understanding what's normal is incredibly difficult, and 20 I regularly speak to young adults now who give up on 21 relationships because they just find it too difficult 22 and too overwhelming, particularly with all the 23 requirements of disclosure, even for children not 24 convicted of sexual offences, they often are required to 25 disclose relationships and it's almost too painful for</p> <p style="text-align: center;">Page 19</p> |
| <p>1 of the age of consent and strict liability rape. So 2 things that may seem to be things that everybody is 3 doing may nevertheless be completely unlawful if -- you 4 know, due to your age and so children need to understand 5 that. And it also seemed from my experience that 6 children who did get that kind of intervention also 7 benefited from a safe therapeutic space in which to 8 raise concerns if they had them. 9 Q. Just a couple of other points, if I may, about this 10 general issue of the culture in custodial institutions. 11 You have talked about evidence from a young adult, 12 I think, who spoke to you who said that, "Everybody 13 knows you stay the age you come in at". You said this 14 at paragraph 6.8 of your statement. This reflects, does 15 it, that there is a feeling that children's development 16 is hampered and it sort of stops at the age at which 17 they come in. Is that what's trying to be conveyed by 18 that? 19 A. I mean, this young person who said that to me had 20 a learning disability, but I think what he was getting 21 at was, yes, an idea of an arrested development. Since, 22 again, I'm not a psychologist, but since he made that 23 comment to me a few years ago, I have taken it very much 24 on board and when I'm working with young people I often 25 try to make myself think about the age that they did</p> <p style="text-align: center;">Page 18</p> | <p>1 them to do it. We know that developing positive 2 relationships is an incredibly important protective 3 factor in reducing re-offending, so it is very 4 problematic. 5 Q. You set out in your witness statement the evidence about 6 certain backgrounds, children from certain backgrounds, 7 forgive me, being at increased risk of sexual abuse in 8 custody, and we have obviously heard some of 9 the evidence from the REA about that. You have talked 10 about children coming from a background of being in 11 care. I think you have quoted part of the judgment from 12 the Children Act case, is this right, at 6.9: 13 "Children in custody are, on any view, vulnerable 14 and needy children. Disproportionately, they come from 15 chaotic backgrounds. Many have suffered abuse or 16 neglect. They need help, protection and support if 17 future offending is to be prevented. Over half of the 18 children in YOIs have been in care. Significant 19 percentages report having suffered or experienced abuse 20 of a violent, sexual or emotional nature." 21 Now, although that was some years ago, does that 22 broadly represent what you still understand to be the 23 pattern of children in custody? 24 A. Yes, it broadly represents the pattern and it certainly 25 accords with the experiences of the children I'm working</p> <p style="text-align: center;">Page 20</p> |

1 **with day in, day out, sadly, 15 years on.**
 2 Q. In terms of gender issues, as we know, the number of
 3 girls in custody is very small, but you have given some
 4 evidence about particular issues affecting girls that
 5 you have become aware of. Perhaps help the panel with
 6 that, please?
 7 **A. Yes. As you have said, the number of girls in custody**
 8 **is incredibly small at the moment, and that means that**
 9 **they're often quite isolated. There may be just a few**
 10 **in any given establishment at any one time.**
 11 **Certainly there will be particular issues, such as**
 12 **the one I have outlined in my statement, particular**
 13 **concerns about strip searching, particularly of girls**
 14 **who have had previous negative sexual experiences or**
 15 **have been abused in the past. That can take on an**
 16 **extremely challenging and distressing take to it. For**
 17 **example, particularly -- you know, the few occasions**
 18 **where I have worked with girls who have been pregnant**
 19 **and have been strip searched on return from scans, which**
 20 **can be extremely intrusive and distressing, and often,**
 21 **you know, they -- the link for them between their own**
 22 **previous experiences and the day-to-day churn of what's**
 23 **happening in the custodial environment is going to be at**
 24 **the forefront of their minds, but clearly not at the**
 25 **forefront of the person who's got the day job of getting**

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1 **them to court or whatever it is.**
 2 Q. You have said that you have experience of a number of
 3 girls indicating that they have had inappropriate
 4 experiences with staff members; that how that is
 5 considered, whether it is abusive or not, seems to
 6 depend on a number of factors, including their own
 7 perceived role in the relationship, the child's age and
 8 their past experiences. So there are some examples that
 9 you have had of girls having experiences with staff
 10 members, but you have also talked about peer-on-peer
 11 abuse, and you say that the concerns appear to relate
 12 more to sexualised language and bullying, in the sense
 13 that the small number of girls means there are very few
 14 girls in a boys' world. Tell us a little bit about what
 15 you mean by that?
 16 **A. One example is from some years ago. A young girl who**
 17 **was pregnant, who was being bullied by other children,**
 18 **saying they would kick the baby out of her and things**
 19 **like that, and feeling -- you know, as the only pregnant**
 20 **girl in that establishment at that time, feeling**
 21 **extremely vulnerable and distressed. I think that it is**
 22 **a real issue because there tend to be just one or two**
 23 **girls now amongst all the boys.**
 24 Q. You have already addressed issues of ethnicity briefly.
 25 You have made the point in 6.11.2 of your first witness

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1 statement that you don't know of any research that
 2 specifically addresses the extent to which BAME children
 3 are more likely than other children to be a victim of
 4 sexual abuse, but I think you have made the point that
 5 because of the high percentages now of BAME children in
 6 custody, that's an area that should be looked at more
 7 carefully?
 8 **A. Yes. I think that should be looked at more carefully,**
 9 **and I think that's right on the basis of the high**
 10 **percentages. But it also -- obviously the numbers**
 11 **I have are so small, you couldn't draw any correlation,**
 12 **but it also does seem to be an issue that when some**
 13 **young people who have talked about concerns about**
 14 **inappropriate sexual behaviour in custody have also**
 15 **talked about feelings of being targeted and racism. So**
 16 **it may be that there is an actual correlation. I just**
 17 **don't know. I think it is something that really ought**
 18 **to be explored. It may just be about being targeted and**
 19 **there may be relevant links there.**
 20 Q. Help us with your evidence about sexual orientation and
 21 the link between that and sexual abuse.
 22 **A. Yes. Again, this is an area that seems to me, to the**
 23 **best of my knowledge, not researched at all. But there**
 24 **are -- certainly I have observed quite high levels of**
 25 **homophobia. We talked earlier about sexualised language**

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1 **in custody, but we will regularly see children being --**
 2 **disciplinary measures for the use of sexualised**
 3 **language, but it is also something we hear -- you do**
 4 **hear homophobic remarks regularly if you are on a wing,**
 5 **particularly in a YOI more than the other types of**
 6 **establishment.**
 7 **As I have said in my statement, talking to one young**
 8 **man who was openly gay, he certainly felt, and I have**
 9 **seen for myself staff talking to young gay --**
 10 **"trainees", they call them, but children, in a sort of**
 11 **more sexualised type banter than perhaps with other**
 12 **young people. From his perspective, he felt very much**
 13 **that that would leave young gay boys more open to the**
 14 **risk of abuse.**
 15 Q. I would like to move now to the issue of violence within
 16 the custodial estate, including the use of force,
 17 because you have given quite a bit of evidence about
 18 this. You talk about how, when children enter custody,
 19 they are exposed to levels of violence that they simply
 20 would not see in the community. You have given quite
 21 a bit of evidence about this at 6.13 and onwards of your
 22 statement. Can you just perhaps pull those threads
 23 together and give the panel a summary of what your view
 24 is on this part of the evidence?
 25 **A. Yes. I think that all the statistics we get about**

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1 violence in the secure estate are understandably linked
 2 to proven assaults and disciplinary measures and the use
 3 of force as in restrictive interventions, because that's
 4 the hard data one gets. But actually, from my
 5 experience working with children day in, day out,
 6 sometimes it's the fear. So many of the young people
 7 I talk to are quite literally terrified of sometimes
 8 going to education or going out and about on the wing.
 9 It is the case also that prisons are very noisy places,
 10 particularly the YOIs, and sometimes the sound of
 11 violence in itself can be quite terrifying. So there's
 12 an exposure.

13 One example that springs to mind, last year, when
 14 a young person spent several days cowering behind his
 15 door while there was a huge fight going on in a wing,
 16 literally feeling absolutely terrified to come out. If
 17 you think, having to listen to the sound of violence and
 18 to feel that you might be next puts people in
 19 a potentially permanent state of fear. Certainly that's
 20 what children sometimes describe to me. I think that
 21 tends to be underestimated. It is ironic because
 22 obviously I read lots of pre-sentence reports and every
 23 one of those will look at early childhood experiences
 24 and they will always point out if a child has been
 25 exposed to domestic violence, even if it was one serious

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1 incident. But then, as a result of the process, we are
 2 often putting children in situations where violence is
 3 routine.

4 Q. A couple of other points that perhaps flow from that.
 5 You have given some examples of a link between extreme
 6 violence and sexual abuse. You have said that it is now
 7 clear that they often go hand in hand. You refer to
 8 several cases, including I think that of Lee Waite. Can
 9 you help perhaps explain a little bit why you believe
 10 there is that link between violence and sexual abuse?

11 A. Again, perhaps it's something to look to some of
 12 the chronological evidence on that, but it seems to me
 13 there is evidence from a range of sources. There has
 14 been some recent research by the University of Kent
 15 about experiences of sexual abuse among girls and
 16 violence, there's research by victim support about the
 17 correlation between abuse and violence, and generally
 18 a deeper understanding that sexual abuse is often not so
 19 much about sexual gratification but about power and
 20 control.

21 Again, these are all things that are probably for
 22 others to comment on in further detail, but it does seem
 23 that there is at least a correlation where these things
 24 are unearthed. As in the case of Lee Waite, he suffered
 25 a violent sexual attack, and of course Medomsley where

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1 the -- sorry, Portland, not Medomsley, Portland, where
 2 The Howard League -- and I wasn't there at the time, but
 3 the chief executive raised real concerns about the
 4 levels of violence at Portland and then of course years
 5 later it turned out that Neville Husband had been there
 6 at the time and there was serious sexual abuse.

7 Q. A couple of other points just to pull these threads
 8 together, if I may. You have given some evidence about
 9 how staff in one review, I think in 2008, were able to
 10 describe children actively seeking restraint for sexual
 11 or other gratification. That's one sort of element of
 12 what you have -- another perhaps complicating factor.
 13 You have also talked about examples where children have
 14 alleged inappropriate sexual behaviour by staff in the
 15 course of restraint?

16 A. Yes.

17 Q. So there is that sort of theme. Then you have described
 18 as well allegations in your Commission on Sex in Prison
 19 from 2015 that some staff would bait children into
 20 situations that would result in restraint for their own
 21 gratification. Are those sort of some of the other
 22 perhaps more complicated threads of this link, if you
 23 like?

24 A. Absolutely. Then, if you go back to what we were saying
 25 earlier about children who are largely untouched and

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1 unhugged, it has to be seen in that context, and
 2 certainly in the Carlile Inquiry as well, Lord Carlile
 3 raised concerns about the potential sexualised nature of
 4 some restraint. That's evidence that other people have
 5 provided.

6 Q. In your most recent statement, you were asked some
 7 questions by the inquiry about use of force by the
 8 staff. This is now paragraph 4.1 and onwards of your
 9 second statement. You were asked some factual questions
 10 about whether it's your understanding that force is
 11 still used by staff for what's called "good order and
 12 discipline", and whether or not pain compliance
 13 techniques are used. Can you just help the panel with
 14 your understanding of the answer to those questions?

15 A. Yes. In terms of the use of force to get children to do
 16 as they are told, as you will be aware from the C case
 17 now some time ago, that was ruled as unlawful in secure
 18 training centres when there was an attempt to change the
 19 rules for the secure training centres.

20 However, it is still permitted, it seems to me --
 21 I don't think I could say it was lawful, but it is still
 22 permitted under the Secretary of State's policy in YOIs,
 23 and I have provided I think for you some --

24 Q. At 4.2 of your statement you have set out why you
 25 understand that to be the case.

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| | |
|--|--|
| <p>1 A. I have set out the policy there. Certainly children do 2 come to me and say on the advice line to us that they 3 have been restrained for not doing as they were told, or 4 certainly that's how they perceive it. Quite often, 5 then, when one gets the Use of Force paperwork, it will 6 say that there's some other reason, but there's 7 certainly a large number of instances where children 8 tell us that they feel that they have been subjected to 9 use of force for not doing as they are told. 10 Q. We will certainly hear more in due course about 11 minimising and managing physical restraint, which is 12 I think a newer programme, the MMPR programme, which 13 tries to de-escalate incidents and so on. What's your 14 view about that initiative, Dr Janes? 15 A. I think you did ask me whether pain compliance is still 16 used. As I understand it, MMPR does include some holds 17 that deliberately involve the use of pain. As you say, 18 there is in fact quite a bit of overlap between control 19 and restraint and MMPR in terms of the technical holds. 20 What's supposed to be different, in my understanding, is 21 the packaging around it, as it were; the idea that those 22 who are trained in the use of MMPR are trained in 23 focusing on children and young people, their specific 24 needs and managing situations without having to resort 25 to restraint, to the use of force.</p> <p style="text-align: center;">Page 29</p> | <p>1 children experience, but then that is often also 2 compounded by the use of disciplinary processes after 3 restraint? 4 A. Yes. 5 Q. Is that right? 6 A. Yes, that's absolutely right, yes. 7 Q. You have given a certain amount of evidence -- I'm sorry 8 to jump around -- to go back, please, to your first 9 witness statement about some other factors that might 10 help understand the low reporting of sexual abuse in 11 prison. Just please to look briefly at paragraph 6.16 12 of your statement. You have talked there about the 13 limits on the personal and emotional support that 14 children have. You have pulled out, just to try and 15 summarise it, some factors around children being kept 16 distances from their home and the practical difficulties 17 of children keeping in contact with their families. 18 A. Yes. 19 Q. Is there anything in particular that you would like to 20 pull out for the panel on that topic? 21 A. Yes. I think -- I've mentioned at 6.17 of my statement 22 the scenario where children in YOIs have to choose 23 between getting extra canteen, because they are hungry, 24 or using their credit to phone their mum, which seems to 25 be a choice that no child should have to make, and so</p> <p style="text-align: center;">Page 31</p> |
| <p>1 Q. I think you have said there are still concerns that the 2 MMPR programme does include I think three pain-inducing 3 holds? 4 A. Yes. 5 Q. Thumb flexion, mandibular angle and wrist flexion 6 manoeuvres. But in your experience, children are still 7 subjected to C&R, you describe it as? 8 A. Yes, children are sometimes subjected to control and 9 restraint. Certainly in some establishments they will 10 come into contact with staff who are not trained in MMPR 11 and that's certainly the case presently at one YOI, 12 which is a split site and where there are staff who 13 routinely come into contact with children. 14 Q. You have referred here to being granted permission to 15 judicially review Feltham, I think, for not ensuring 16 that all its staff are trained in MMPR? 17 A. That's correct. 18 Q. You said regularly children call the advice line 19 complaining about being hurt during restraint? 20 A. That's correct. But that will also include when they 21 have been subject to MMPR, because it still hurts. 22 That's how children describe it. 23 Q. A final point perhaps on this topic: you have said that 24 not only does the use of restraint in your experience 25 compound the sense of injustice and powerlessness that</p> <p style="text-align: center;">Page 30</p> | <p>1 I think that -- and the frustrations that children have. 2 Being able to phone home, of course we live in 3 a technologically advanced world, but calling mobiles is 4 extremely expensive. Children in some prisons still 5 have to be allowed out to make the call, their time is 6 very limited, it artificially cuts off. They know that 7 phoning home, of course, will be monitored and recorded 8 and sometimes they don't have a private space in which 9 to make that call. I'm very sensitive to that. Even 10 when I speak to children on our confidential advice 11 line, one always has to say, "Can you speak to me 12 privately?", because you don't know exactly where they 13 are and who else is listening and how open they are able 14 to be. 15 Q. You have made the point that for many children who don't 16 have family support and who are reliant on 17 Social Services, you find it a matter of concern that 18 many children tell you they don't receive regular visits 19 from their social workers? 20 A. Yes, that's correct, and often children don't receive 21 regular pocket money from their social workers which 22 means they can't even buy the extra canteen, as it were. 23 Q. Is there anything else in relation to the evidence you 24 have given in your witness statement about the power 25 imbalance and about the punitive culture that we have</p> <p style="text-align: center;">Page 32</p> |

1 talked about that you want to draw out or have we
 2 covered most of those themes already in your evidence?
 3 **A. I think we have covered most of those themes.**
 4 Q. Just for reference, this is your headings at 6.19 and
 5 onwards and then 6.22 and onwards.
 6 Perhaps I can move on to some different topics, but
 7 if there is anything else you feel a need to pull out,
 8 then please do let me know.
 9 Could I go now, please, to your second witness
 10 statement, where you were asked some perhaps more
 11 granular questions by the inquiry about things such as
 12 staff recruitment, resourcing and things of that nature.
 13 Let's perhaps take the resources issue first at
 14 section 2 of your second witness statement.
 15 You were asked questions about your understanding of
 16 reductions in the budget or otherwise for children and
 17 whether or not there is any link between that and what
 18 has been reported about safety in these institutions in
 19 recent years and, indeed, sexual abuse.
 20 Can you help us with what your understanding is of
 21 the funding for children in custody and resourcing in
 22 financial terms?
 23 **A. Yes. I mean, just looking at the data available, it**
 24 **does seem to me that funding isn't actually a major**
 25 **issue in the children's secure estate. Certainly in**

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1 **fact the Ministry of Justice -- this is addressed**
 2 **I think at paragraph 2.7 of my statement and onwards.**
 3 Q. You have given some figures saying your understanding is
 4 the cost has gone up slightly per place in a YOI; is
 5 that right?
 6 **A. Yes, exactly. So between 2013 and 2017, the average**
 7 **cost per child per place has gone up from 65,000 to**
 8 **76,000. Now, I don't know if that's the actual cost has**
 9 **gone up or they are spending more, but certainly if you**
 10 **turn the page there later at that paragraph, there is of**
 11 **course, in February of this year, the announcement that**
 12 **the Ministry of Justice had £64 million to invest in the**
 13 **reform of the youth custody estate.**
 14 **So at the moment I think that seems to be earmarked**
 15 **for creating secure schools, but clearly it seems that**
 16 **there is some money available which may be different**
 17 **from the wider secure estates.**
 18 Q. When we come to look at issues around resourcing and
 19 staff levels and high staff turnover, and so on,
 20 I think -- is this right? -- you try and pull this issue
 21 together at 2.8 and say you don't have sufficient
 22 evidence to conclude there's a direct causal link
 23 between resources and the increased risk of child sexual
 24 abuse, but "A lack of resources, low staffing levels and
 25 high staff turnover is not, in my view, conducive to

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1 creating a safe space where changes in the behaviour of
 2 children and staff can be easily spotted and people feel
 3 able to speak out. It is also my experience that if
 4 children feel unsafe and/or poorly treated due to a lack
 5 of resources and their complaints in respect of those
 6 issues remain unresolved, they simply lose faith in the
 7 system and become less likely to see any point in
 8 raising concerns."
 9 So, is it that you are suggesting that it might not
 10 be a resourcing issue in terms of hard figures, but more
 11 about whether, if those resources are not ensuring
 12 proper staffing levels and regular staff without a high
 13 turnover rate, that that's where the issues might come
 14 in?
 15 **A. And also resources in terms of culture, emotional**
 16 **resources almost. Children -- in my experience, timing**
 17 **is everything. If children are, you know, kept waiting**
 18 **for basic needs or fobbed off, then they start to lose**
 19 **confidence and they start to lose faith.**
 20 **So certainly, you know, resources are important,**
 21 **they are necessary, but they are not sufficient, in my**
 22 **view, to avoid that risk.**
 23 Q. Also in this area you have dealt with the recent
 24 statistics about safety in prisons and in particular
 25 about the reports from young people about feeling safe.

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1 **A. Yes.**
 2 Q. We have heard evidence about how the number of children
 3 reporting in YOIs that they did not feel safe has gone
 4 up. Is this right, you say at 2.5 that although you
 5 can't link that declining safety directly with sexual
 6 abuse, it stands to reason that child sexual abuse in
 7 custody ought to be considered in the context of this
 8 wider environment not only because the violence itself
 9 constitutes harm or the lack of safety constitutes harm,
 10 but also because it may further emphasise the power
 11 imbalance and place children in a fearful state where
 12 they are afraid to speak out?
 13 **A. Yes.**
 14 Q. Is that how you see there is a link?
 15 **A. Yes, that is how I see it. I think children find it**
 16 **hard enough to speak about things anyway, purely because**
 17 **they are embarrassing. Several examples over the course**
 18 **of my career where children have really struggled to**
 19 **talk about anything to do with sex, let alone things**
 20 **where they feel it will be a huge deal and may have**
 21 **repercussions and affect all sorts of things to do with**
 22 **their lives. If they are in a fearful state, the**
 23 **chances of them disclosing anything like this is very**
 24 **low, it seems to me.**
 25 Q. Just to be clear, you have quoted some statistics from

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1 the MoJ, that in the five years leading up to 2015/16,
 2 the use of force on children had increased by
 3 36 per cent -- that's the use of force by staff; but
 4 assaults had increased by 95 per cent; and self-harm by
 5 120 per cent. So those are different types of harm that
 6 are also increasing?
 7 **A. Yes.**
 8 Q. You quoted the figures at the end of 2.4, I think, and
 9 I think we may have heard these already, that between
 10 1 April 2016 and 31 March 2017, according to the HMIP
 11 report, 39 per cent of boys and more than one in five --
 12 boys in YOI -- sorry, and more than 1 in 5 of those in
 13 STCs did not feel safe?
 14 **A. That's what young boys were reporting. It is very**
 15 **rare -- if you directly say to a young lad, "Do you feel**
 16 **safe?"; even if they don't feel safe, they will quite**
 17 **often say, "No, I'm fine. I'm fine, miss. I'm all**
 18 **right, miss". So those figures, I would have thought,**
 19 **are just the self-report and may be an underestimate.**
 20 Q. Moving on to the topic, please, of staff recruitment and
 21 training, you were asked to give some evidence to the
 22 extent that you could about these issues. The key theme
 23 that you seem to bring out about staff training is
 24 a sort of gap in skills among staff about the real
 25 issues of looking after children with the

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1 vulnerabilities that we have heard about. Is that
 2 a sort of fair summary? Perhaps a slightly
 3 unsophisticated one. Do you want to do a bit better?
 4 **A. Yes, please.**
 5 Q. Please explain what you think the key gaps are?
 6 **A. Yes. I think that if -- we have done some work recently**
 7 **with children in custody about what home means to them.**
 8 **We did these through participation sessions with**
 9 **children in prison. These teenaged boys overwhelmingly**
 10 **drew pictures of love and comfort and kindness and**
 11 **caring, even though they were quite tough young**
 12 **children. That's what they wanted. They wanted an**
 13 **environment that felt like home.**
 14 **So I suppose, in a sense -- or as much as one could**
 15 **expect, given the circumstances. So I suppose, in**
 16 **a sense, if you want to replicate good or even decent**
 17 **parenting, if you think about the corporate parenting**
 18 **principles that have been developed by the Department**
 19 **for Education recently about what good parenting looks**
 20 **like, then the staff base needs to be supported to be**
 21 **able to provide that consistently and as a whole team.**
 22 **So in the children's homes that are better, if not**
 23 **perfect, they provide a better environment for children,**
 24 **you get holistic training which includes the education**
 25 **staff with the psychological staff actually linking in**

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1 **with the residential staff and the education staff. So**
 2 **it's about making sure staff are properly equipped, but**
 3 **also personally supported to understand these issues and**
 4 **to support children in a way that looks a bit more like**
 5 **good parenting.**
 6 Q. You make the point, for example, at 3.1, that although
 7 some members of staff working in STCs and YOIs have been
 8 undertaking a designated qualification, that is not
 9 a prerequisite to working with children in the secure
 10 estate?
 11 **A. To the best of my knowledge, that is the case, yes.**
 12 Q. Do you think it should be?
 13 **A. In an ideal world, yes. I think that it would be**
 14 **unthinkable, wouldn't it, to have people working with**
 15 **vulnerable children in the community who weren't**
 16 **qualified, with this level of vulnerability to do so,**
 17 **and who didn't specifically just want to do that job,**
 18 **because it is a hard job, a really hard job, and**
 19 **actually having -- you know, choosing to do it and being**
 20 **equipped to do it before you start seems to me to make**
 21 **logical sense.**
 22 Q. You make the point that you are not clear as to the
 23 extent to which, as a matter of course, those coming
 24 into the secure estate receive training in child
 25 development or children's rights but you are of

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1 the understanding that staff don't get routine training
 2 about talking to children about sexual behaviour, sexual
 3 identity, the law around sex, the rationale behind the
 4 law and healthy sexual relationships. You don't
 5 understand that that features as part of staff training?
 6 **A. I'm not aware that it is. The only time I have ever**
 7 **come across it is with the small number of children who**
 8 **have had interventions when they themselves have had**
 9 **harmful sexual behaviour and sometimes the staff working**
 10 **with those children have done sessions for staff who are**
 11 **interested and engaged, but that's not routine, it's not**
 12 **embedded into the structure. It is something that,**
 13 **whenever I have spoken to staff who have been involved**
 14 **in supporting these children, they find really helpful**
 15 **and actually helped them to work more constructively and**
 16 **in a supportive way with children.**
 17 Q. As well as those themes around training for staff,
 18 I think you have pulled out a theme about supervision of
 19 staff and how the staff themselves work -- this is 3.7
 20 of your first statement. Because you have made the
 21 point it is well established that child sexual abuse is
 22 often about power and control and may be an indicator of
 23 a dysfunctional relationship. Perhaps help the panel
 24 with how you link that with how improved supervision for
 25 staff might be appropriate?

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1 **A. I think it is 3.7 of my second statement.**
 2 Q. Forgive me, yes, you are right.
 3 **A. Yes, it does seem to be that having those conversations,**
 4 **having that awareness, having shared understandings and**
 5 **the opportunity for staff to have supervision, to ask**
 6 **themselves, "What's going on here? How am I able to**
 7 **appropriately support this young person without -- make**
 8 **them feel supported but without crossing boundaries?"**
 9 **These are all really complex questions and really**
 10 **difficult questions, and I think having supervision and**
 11 **also, you know, there is a real risk that, as I said,**
 12 **children are exposed to these environments of fear,**
 13 **actually staff are also working and exposed to violence**
 14 **and trauma every day, and a more reflective and**
 15 **thoughtful environment would benefit everybody.**
 16 Q. Just a couple of further threads on that. You have
 17 pointed out that, without that sort of supervision and
 18 support, staff may be at risk of either you say
 19 "othering" the children they work with to the extent
 20 they don't see the children as children, they start to
 21 think of them, as you have described one prison officer
 22 saying, that she didn't regard them as children because
 23 of their size and their strength?
 24 **A. Yes.**
 25 Q. So that's one element of it. But the other is perhaps

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1 children having positive relationships with staff that
 2 are then questioned by other staff as not being
 3 appropriate?
 4 **A. Yes.**
 5 Q. So there are two different elements to this. Is that
 6 right?
 7 **A. I think that must be incredibly difficult. One can see**
 8 **how this idea that members of staff might not see**
 9 **a child as a child may be a protective factor for them**
 10 **if they are being forced to lock that person in a room**
 11 **or physically intervene with them. That may be**
 12 **a personal protective factor, but clearly it can be**
 13 **concerning. Then the other extreme, where certainly**
 14 **I have seen some very caring members of staff being told**
 15 **that they have to move or not have continued contact**
 16 **with a young person because of the risk of professional**
 17 **boundaries. Again, you put that back into the context**
 18 **of good parenting and these kinds of concerns would sort**
 19 **of be unthinkable in a parental context. So I think**
 20 **staff could really benefit from a level of reflective**
 21 **supervision and support that would help them to navigate**
 22 **those extremities.**
 23 Q. You have referred, I think at 3.8 in your statement, to
 24 several different concerns about the relationship with
 25 Social Services. Help us with what your child

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1 protection concerns have been from The Howard League's
 2 experience?
 3 **A. Sadly, an increasing part of the work that The Howard**
 4 **League legal team has to do is to make child protection**
 5 **referrals. This is in addition to our legal work, but**
 6 **obviously, when we have a child protection policy and**
 7 **when it comes to our attention that a child may be at**
 8 **risk of serious harm, we want to make sure that the**
 9 **relevant statutory agencies are on notice.**
 10 **As I said already, these don't tend to be about**
 11 **sexual abuse because children don't tend to report that,**
 12 **but about other issues, and we tend to get very varied**
 13 **responses from some local authorities and some prisons**
 14 **in respect of those referrals.**
 15 Q. You have given one example at least of a LADO, about
 16 whom we will hear, refusing to accept a referral on what
 17 you describe as quite sort of technical or unfair
 18 grounds?
 19 **A. Yes.**
 20 Q. And of course this individual role, as we will hear, is
 21 the person who would perform a role if there was an
 22 allegation of sexual abuse. So that's why you are
 23 bringing this to our attention, is it?
 24 **A. That is exactly why I'm bringing it to your attention,**
 25 **and also there are times when I have spoken to young**

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1 **people who have raised concerns and I have said, well,**
 2 **you know, we have made a referral to the LADO and young**
 3 **people have said, "I don't see the point" or "They just**
 4 **came to see me and asked me a load of questions", and**
 5 **never saw them again and they don't know what happened.**
 6 **So a sense of not seeing that as a protective factor.**
 7 **I can't say that's for every LADO, but certainly it is**
 8 **a concern that we have experienced that on some**
 9 **occasions.**
 10 Q. You raise an issue around restraint at the end of 3.8 of
 11 your statement. I think you say it may be that officers
 12 and the social work teams in the areas where children's
 13 prisons are based ought to be afforded specialist
 14 training. Help us understand a little bit what you mean
 15 by that, please?
 16 **A. It just seems to me that the stock response we often get**
 17 **when we make a referral to Social Services in the area**
 18 **where the establishment is based is, "Well, that's for**
 19 **the establishment to deal with", and it's seen to be**
 20 **separate and something that is not within --**
 21 **particularly in their remit. Not always, but that is**
 22 **something that we do come across. However, I think if**
 23 **the LADOs who are dealing with children in custody were**
 24 **given specialist information and training and guidance**
 25 **about the particular vulnerabilities that children in**

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1 custody face, almost as a minimum, some of the things we
 2 have talked to today about the constant lowest common
 3 denominator, exposure to violence, the potential to be
 4 fearful at the outset, then it may be that going along
 5 to see them and saying -- and doing some cursory
 6 questions wouldn't be the starting point, it would be
 7 a completely different starting point, because there
 8 would be a recognition that even to get the children
 9 concerned to speak, they would have to overcome their
 10 anxiety and their fear.

11 Obviously I'm not in on those interviews or anything
 12 like that. It may be that they have that specialist
 13 training. But if they don't, I think it would be
 14 helpful.

15 Q. You deal with the issue of staff turnover rates.
 16 I think you perhaps make a point at 3.9 that in your
 17 experience children are more likely to open up to people
 18 that they trust and have formed positive relationships
 19 with, which is difficult if there is a high turnover of
 20 staff, and that children in secure children's homes
 21 generally have a better experience and part of that
 22 experience is that there is a more stable and long-term
 23 staff group, whereas you see the evidence being that the
 24 YOIs, particularly in the south-east, have a higher
 25 turnover of staff. Is that fair?

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1 **A. Yes. That's fair. It's not uncommon to see staff**
 2 **members on detached duty in the south-east, yes.**

3 Q. You were asked questions about the divergence between
 4 the diversity of the group of staff that operate in the
 5 youth secure estate and the children in the secure
 6 estate. Do you have any evidence that you can offer on
 7 that?

8 **A. There certainly is a divergence, as you will be aware**
 9 **from the location of most of the YOIs and STCs, they**
 10 **tend to be more in rural areas. The staff are often not**
 11 **as diverse as the children inside. We have already**
 12 **heard about the very high numbers of BAME children in**
 13 **prison.**

14 So the children are seeing people who potentially
 15 seem different to them. Now, I don't think there is the
 16 research -- again, there is a gap here -- on whether or
 17 not -- whether there's evidence that that's an
 18 inhibiting factor preventing children from going to
 19 speak to those members of staff.

20 Q. But it might be?

21 **A. But it could be. Logically, it could well be.**

22 Q. Just the final topic from your second statement, please.
 23 You were asked some questions about support for
 24 children. So if a child makes an allegation and it is
 25 found to be not substantiated, you were asked about

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1 whether or not, even in those situations, a child should
 2 be supported. Can you help us with what you said in
 3 response to that?

4 **A. Yes. It seems to me very important that children ought**
 5 **to be supported when they make an allegation, not just**
 6 **for the child who makes it, but also it is important**
 7 **that children do see that other children who raise**
 8 **concerns are appropriately supported so that they know**
 9 **that they can raise concerns themselves. It seems to me**
 10 **that, going back to the fundamental issue of the power**
 11 **imbalance, if the allegation is there, given that**
 12 **children are in such a vulnerable and so much weaker**
 13 **position, that steps ought to be taken to protect that**
 14 **child, no matter what. I can't see the damage of doing**
 15 **that, particularly where everything a child does is**
 16 **under the control of the state.**

17 Q. I will move, if I may, to two last broad topics. First,
 18 I would like to deal with the proposals for reform you
 19 have dealt with in your statement. Secondly, I will
 20 perhaps come briefly to the various papers that were
 21 provided by The Howard League through the Commission on
 22 Sex in Prison and also one of your other papers about
 23 the size of establishments.

24 Could I go back, please, to section 7 of your first
 25 statement, where you deal with, in a composite section,

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1 the current hurdles to the effective systems of redress
 2 that you identify and then perhaps the flip-side, which
 3 is measures that may prevent abuse perhaps linked with
 4 that.

5 Help us, please, with the sense of children not
 6 being believed and what you see the issues are under
 7 that heading?

8 **A. Yes. As you can see, this is at 7.1 of my first**
 9 **statement. There does seem to be a routine sense from**
 10 **the children that I speak to that they won't be**
 11 **believed, and so children will often -- we will often**
 12 **talk to children about the problems they're experiencing**
 13 **and say, "Would you like us to help you make**
 14 **a complaint?", and we often hear children say, "There's**
 15 **no point. It's not going to make any difference". This**
 16 **is reinforced I think through the disciplinary system,**
 17 **particularly in YOIs where there is a sort of a mini**
 18 **trial system, as it were, where disciplinary matters are**
 19 **charged and of course the reality is that, although**
 20 **there's a criminal standard of proof --**

21 Q. Beyond reasonable doubt, yes?

22 **A. -- beyond reasonable doubt, if it is a child's word**
 23 **against an officer, you know, the reality is, as**
 24 **somebody advising that child and saying, you know, what**
 25 **punishment are you going to get and advising them**

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| <p>1 appropriately, you'd have to say, "Well, you know, you 2 will be found guilty". That's the reality of it. 3 So in that environment, where the standard thing is 4 that you will not be believed, whether it is in 5 a disciplinary matter -- again, because of 6 the fundamental power imbalance -- it is not surprising 7 that children think their word stands for little. Of 8 course, we are dealing with lots of children who have 9 very low self-esteem to start with.</p> <p>10 Q. I think you follow on in your statement at 7.2 and 11 onwards with perhaps the next step, which is that, even 12 if children do make complaints, there is then a theme 13 that you bring out here that there is a feeling that 14 those complaints aren't acted upon or aren't acted upon 15 fairly. Help us understand that, please?</p> <p>16 A. Really, the complaint system in YOIs is the same as the 17 adult complaint system: you make a series of internal 18 complaints, and then, if your matter is not dealt with 19 appropriately, it then goes up to the Prison and 20 Probation Ombudsman. Quite often, The Howard League 21 will support children to do that.</p> <p>22 I think the very low numbers of complaints that the 23 ombudsman receives reflects the fact that children 24 routinely don't bother making complaints. I think the 25 last available data from the ombudsman was that children</p> <p style="text-align: center;">Page 49</p> | <p>1 clearly what their complaint is, being able to keep 2 a copy of their complaint when they get frustrated and 3 they say "I put the complaint in" and they say "We 4 haven't got it", and generally the time that's taken for 5 complaints to be processed, particularly if the child is 6 wanting an immediate resolution.</p> <p>7 Q. Then under 7.5 and thereafter, I think you have come 8 back to the issue of safeguarding referrals not being 9 effective in your experience and perhaps children 10 feeling that it's made no difference. Is that a fair 11 summary?</p> <p>12 A. That is a summary of what children have indicated to me, 13 yes.</p> <p>14 Q. Just perhaps give the panel the example you give at 7.6, 15 please?</p> <p>16 A. This is an example of a 17-year-old boy in a YOI who had 17 been accused by the prison of sexually assaulting 18 a member of staff. The boy alleged that the member of 19 staff had been having a sexual relationship with him and 20 other children. A referral was made to the Local 21 Authority's Designated Officer. The member of staff was 22 suspended and the matter was referred to the police for 23 investigation.</p> <p>24 We were told by the prison that the police attempted 25 to interview a number of children but this was</p> <p style="text-align: center;">Page 51</p> |
| <p>1 were about 1 per cent of the prison population and 2 they're about 0.1 per cent of complaints that they 3 receive.</p> <p>4 Certainly there have been several cases, not all of 5 them, there have been some occasions where the PPO has 6 come up with some good decisions. But generally it 7 takes a very long time. So the child is often released 8 by the time the Prison and Probation Ombudsman has made 9 a decision. But quite often the PPO will operate to the 10 same standard that I have mentioned before in relation 11 to the disciplinary system. So if it is one -- one 12 person's word against another, the child will routinely 13 not be believed.</p> <p>14 Q. You have pulled out some more logistical barriers, if 15 I can put it that way, or concerns. One is about delay 16 in the time it takes to investigate things. You have 17 also talked about some logistical issues about how easy 18 it is to make a complaint, children having to make 19 a complaint in one YOI on a computer terminal on the 20 landing which requires them to be let out and children 21 having a concern that their complaint, if they make it, 22 will not be confidential. Are those some of the issues 23 that you have pulled out here?</p> <p>24 A. Yes, and in addition to that, children obviously with 25 huge problems with literacy being able to articulate</p> <p style="text-align: center;">Page 50</p> | <p>1 unsuccessful and no further action was taken. The 2 prison told us our client was not interviewed because he 3 was being demanding and he would not speak to the police 4 unless certain conditions were met. These conditions 5 included being allowed to have a shower and make 6 a telephone call before being interviewed.</p> <p>7 The prison refused to allow this and so the 8 interview did not proceed. No further action was taken 9 by the police.</p> <p>10 Our client was subsequently moved to another 11 establishment. An investigation was commissioned by the 12 employer of the member of staff. So it wasn't the 13 Prison Service on that occasion. But we don't know what 14 happened.</p> <p>15 Q. You go on to say at the end of this section of your 16 first witness statement that in your view the most 17 important thing is to prevent sexual abuse happening in 18 the first place. Just perhaps pull out some of the key 19 themes that you give the panel in that section of your 20 evidence?</p> <p>21 A. Yes. So certainly in terms of preventing sexual abuse, 22 it really does come down to children feeling safe, in my 23 view. I talk in this section of my evidence about some 24 of the extremely worrying concerns that have been raised 25 to us by young adults, and of course we now know that</p> <p style="text-align: center;">Page 52</p> |

1 **young adults are still developing, their brains are**
 2 **still developing, until at least the age of 25.**
 3 Q. The age range that you would use for that, just help the
 4 panel --
 5 **A. 18.**
 6 Q. When you are talking about young adults, you mean those
 7 who are --
 8 **A. Literally just heading from the age 18 up to 25 and of**
 9 **course many of them will have been in prison as**
 10 **children.**
 11 Q. I think some of the themes that you draw out from that
 12 are what you are trying to help the panel with; is that
 13 right?
 14 **A. Yes, exactly. For example, it seems that some of**
 15 **the things that lead to the concerns about young adults**
 16 **may be useful to consider in terms of the features that**
 17 **exist there and that lead to the concerns that I have**
 18 **raised are things that we ought to think about for**
 19 **children. So, for example, there are lower staff**
 20 **ratios. There is an absence of permanent external**
 21 **adults. At least in the children's prisons, you do have**
 22 **external people who are permanently in, whether or not**
 23 **it is advocates or social workers, employed by the local**
 24 **authority. But they are very few in number. You will**
 25 **have one or two advocates per establishment.**

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1 Q. I think you say you regard that sort of individual,
 2 children's rights advocates who can freely walk around
 3 the prison and talk to children, as well as social
 4 workers, whose job description includes putting the
 5 welfare of children first, may well serve as an
 6 important safeguard against abuse, particularly by
 7 staff, but there just don't seem to be enough of them;
 8 is that right?
 9 **A. I think that's right. You know, they have a physical**
 10 **presence, but the fact that there's just a few of them,**
 11 **the fact that sometimes there may be a tension between**
 12 **the advocates and the staff means that that may not be**
 13 **as protective a factor as it could be. Again, the YOI**
 14 **social workers, this was another of the provisions that**
 15 **came in following The Howard League's Children Act case,**
 16 **but there's been lots of problems over the years with**
 17 **those posts being funded and filled and you will have,**
 18 **again, one or two social workers for an establishment**
 19 **holding, you know, well over 100 boys.**
 20 **So that presence can be protective but it probably**
 21 **needs to be more.**
 22 MS HILL: Chair, I see the time. I'm sure the shorthand
 23 writers would appreciate the break. I have a few more
 24 questions for Dr Janes, but I think we are in accordance
 25 with your timetable, if you wanted to take a break now.

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1 THE CHAIR: Thank you, we will return at 12.05 pm.
 2 (11.47 am)
 3 (A short break)
 4 (12.05 pm)
 5 MS HILL: Thank you, chair. Dr Janes, I just have two
 6 questions to follow-up on some of the evidence you gave
 7 before the short break, which I have been asked to ask
 8 you.
 9 First of all, when The Howard League is providing
 10 support to individual children, and you mentioned case
 11 files and things of that nature, is that a service that
 12 you're providing to children who call your hotline? How
 13 do you otherwise identify the children who need the
 14 service that you can provide?
 15 **A. Generally, we are led by the children, we are**
 16 **a children-led service, and we also represent young**
 17 **adults as well. As you know, children may sometimes not**
 18 **have the confidence to call. So we will receive calls**
 19 **directly from children through our confidential legal**
 20 **advice line, which is on the "pin" of every child in the**
 21 **YOIs and available for children to use in other**
 22 **establishments too. But we would also receive calls**
 23 **from parents, carers, concerned professionals that may**
 24 **raise an issue about a young person in custody and then**
 25 **obviously we would only then follow up and take action**

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1 **with the consent of the child.**
 2 Q. The second topic, and I don't want to get too into the
 3 technicalities of this, but can you help with this
 4 proposition: is it right that if you have a child who is
 5 a first offender, effectively, there is quite a limited
 6 range of options for those who are sentencing that
 7 child, and it is either, I think, a referral order in
 8 the community or to some kind of custodial sentence? Is
 9 that what you understand is the position or can't you
 10 help with this?
 11 **A. For a first-time offender, it would depend -- a child**
 12 **who offends for the first time, let me say. It will**
 13 **depend on the age of the child. There are different**
 14 **provisions for children -- I believe it is under 15, but**
 15 **I would have to check the books. A referral order will**
 16 **usually be the only option unless it is a grave crime,**
 17 **in which case then the adult sentencing options are**
 18 **available, and that's for a case that, for an adult,**
 19 **could receive 14 years or more. But of course there are**
 20 **things in between for other children, such as a Youth**
 21 **Rehabilitation Order and other forms of community**
 22 **penalty. But that's not -- you have made the**
 23 **distinction there between a first offence as opposed to**
 24 **later offences.**
 25 Q. I don't want to get too much into the technicalities of

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1 this because I am conscious of what your expertise might
 2 be, Dr Janes. I think it is being suggested a YRO is
 3 not available unless you have been before the courts
 4 before; is that right? I'm very conscious of the scope
 5 here.
 6 MR STEIN: That's right. It is a very limited order. If
 7 you have been before the courts and been dealt with
 8 before the courts, a YRO, Youth Referral Order, is
 9 available. If you are a first time offender and you
 10 plead, then the limitation on the types of sentencing
 11 are either a Referral Order or a DTO, Detention Training
 12 Order. Hence, Referral Order, which is being dealt with
 13 in the community and being given a good talking to --
 14 that's my version of it -- and it does not mean
 15 a conviction or custody.
 16 MS HILL: Can you help at all in terms of evidence? We
 17 might be able to bottom this out by legal research, but
 18 can you help with any evidence on this?
 19 **A. Can I clarify, this is in relation to a first offence?**
 20 Q. That's right.
 21 **A. That's what I think the concern is about. Yes, that's**
 22 **correct. Generally, my understanding -- again, I would**
 23 **be happy to send something through in writing, if that**
 24 **would be helpful, to clarify the issue -- is that for**
 25 **a first offence you are limited to a Referral Order but**

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1 **I think it is dependent on obviously the nature of**
 2 **the offence and your age. That's my understanding. I'm**
 3 **very happy to --**
 4 Q. This is probably a matter that's capable of objective
 5 verification and research, isn't it, rather than me
 6 dealing with this on our feet? This is something that,
 7 surely, if we look in the sentencing textbooks, between
 8 us we can all agree what the rules are?
 9 MR STEIN: Chair, I completely agree with that. We can
 10 provide a short paper.
 11 MS HILL: We have the time to do that in a proper way. All
 12 right, thank you.
 13 Can I move on to the evidence you have given in your
 14 witness statement, please? It is paragraph 7.8 of your
 15 first statement. I was pulling out some of the further
 16 factors that you draw out for the panel, comparing the
 17 young adults' experience with the children's experience.
 18 One issue that you said, at the foot of page 33, is
 19 that, in your own experience, drug abuse may also
 20 increase the risk of sexual abuse in custody, that's
 21 what the REA says, but your own experience is that drug
 22 use in the children's estate is much less than in the
 23 adults' estate; is that right?
 24 **A. Certainly it's not an issue that comes up regularly as**
 25 **a feature and the cause in issues that are brought to us**

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1 **by children.**
 2 Q. Can you help us briefly with the evidence you've given
 3 about CCTV, the impact of that, and, similarly,
 4 body-worn cameras. You have given evidence at 7.9 about
 5 that?
 6 **A. Yes, in relation to CCTV, certainly it is very difficult**
 7 **to get copies or to be able to view CCTV evidence except**
 8 **when you are able to see it as part of representing**
 9 **somebody before disciplinary proceedings as part of an**
 10 **adjudication. Even then it can be difficult.**
 11 **The use of body-worn cameras, certainly in my**
 12 **experience, young people have different reactions to**
 13 **that.**
 14 Q. To CCTV?
 15 **A. Sorry, body-worn cameras.**
 16 Q. Body-worn cameras as well?
 17 **A. Certainly, again, the same difficulties in getting**
 18 **copies of that evidence. Some young people say that**
 19 **they feel safer knowing that it's there; others see that**
 20 **the operation of it, the person who is in charge of**
 21 **switching it on and off, as another power dynamic, as it**
 22 **were.**
 23 Q. You have given some evidence about this in the context
 24 of CCTV, I think. You have said there is one line of
 25 thought which is children might feel safer with it being

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1 there and one where they might feel it is intrusive?
 2 **A. Yes.**
 3 Q. So there are mixed views about CCTV as well; is that
 4 right?
 5 **A. Yes, that's correct.**
 6 Q. By way of the concluding comments in your first
 7 statement, you say this at 8.1:
 8 "Incarceration risks reinforcing the things that
 9 lead to crime, including reducing respect for authority
 10 and damaging experiences that reduce a person's sense of
 11 self-worth. Children are more susceptible than most to
 12 these factors partly because they are impressionable and
 13 have fewer resources to rely on to cope with negative
 14 experiences. System change is required to transform
 15 institutions that lock up children so that staff and
 16 children alike submit to the rule of law. A common set
 17 of rules and standards that are firmly grounded in
 18 a rights-based approach."
 19 I think that the broad theme you draw out here is
 20 that that rights-based approach, aside from the recent
 21 Barnardo's advocacy contracts and some element of this
 22 in training, is what could be developed better; is that
 23 right?
 24 **A. Yes, it seems to me there's a really wide scope for**
 25 **improvement.**

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| <p>1 Q. Perhaps picking up on the issue Mr Stein was really 2 driving at, you give the general point here at 8.3 that 3 the experience of the last decade does show that the 4 number of children in custody can be reduced without 5 negative consequences?</p> <p>6 A. Yes. The number of children in custody has reduced over 7 the last ten years by two-thirds. A really dramatic 8 fall. There's also been a dramatic fall in the number 9 of children arrested. So it's clear that a different 10 approach can take place without the sky falling in, as 11 it were, and certainly the evidence from academics such 12 as McAra and McVie, who are the authors of a very 13 detailed cohort study of children who offended in 14 Edinburgh, the Edinburgh study, it's very clear that one 15 of the biggest single factors towards -- contributing 16 towards offending is system contact. So the more you 17 suck children in, the more likely further offending is.</p> <p>18 Q. The final observation I think you make in your first 19 statement was: 20 "Children who are in custody need to be treated with 21 great care, but they also need to be empowered to take 22 responsibility for their own futures and demand to be 23 treated with respect and dignity. 24 "In my view, this will be the best way forward to 25 protect them from the risk of future abuse."</p> <p style="text-align: center;">Page 61</p> | <p>1 A. Yes. From my perspective and the work we do at 2 The Howard League, there isn't a great deal of 3 leadership on that issue. It is not part of the 4 narrative. It is not part of the wider conversation, to 5 the best of my knowledge.</p> <p>6 Q. Finally, Dr Janes, can I just formally adduce the 7 various papers by way of background that the chair and 8 panel may wish to read perhaps in due course. I think 9 there are two categories, if you like, of material that 10 we have here from The Howard League. The first is the 11 paper "Future Insecure". Perhaps I can bring that up, 12 please, INQ001593. Just help us, while this is being 13 brought up, Dr Janes, this was a paper on secure 14 children's homes in England and Wales; is that right?</p> <p>15 A. Yes, that's correct.</p> <p>16 Q. Tell us perhaps in a sentence what the key point to be 17 drawn from this research was that might assist the 18 panel?</p> <p>19 A. In fact, this was part of a project that The Howard 20 League worked on called "You are boss" which was 21 a children's-led participation project very much led by 22 the voices of children in the criminal justice system, 23 and looking at better practice, as it were. At that 24 time, secure children's homes were under threat of 25 closure, and in fact the situation has stabilised now,</p> <p style="text-align: center;">Page 63</p> |
| <p>1 That's the overall theme that you draw out; is that 2 fair?</p> <p>3 A. Yes, absolutely.</p> <p>4 Q. I think in your second witness statement you give some 5 further concluding observations, please, at page 12 of 6 your second statement. You were asked to consider 7 whether, on balance, you do not consider that the 8 current inspection and regulatory regime provide an 9 effective system for protecting children from sexual 10 abuse. I think you agreed with that question and said 11 you don't think it is, overall, an effective inspection 12 and regulatory regime?</p> <p>13 A. I think it would be very hard to say it is effective in 14 the current state where the inspector is saying no child 15 prison that he visited was safe. It is clearly not 16 being sufficiently effective at the moment.</p> <p>17 Q. You were also asked whether you consider there is 18 effective leadership and governance on child sexual 19 abuse issues in custodial institutions. You say: 20 "It follows from the concerns I have outlined that 21 it is unlikely that there is sufficiently effective 22 leadership and governance at present to guard against 23 the risk of child sexual abuse in many custodial 24 institutions." 25 Is that fair?</p> <p style="text-align: center;">Page 62</p> | <p>1 and I hope that will remain, but since then, several 2 children's homes I believe were closed, secure 3 children's homes, and it was really looking at the 4 benefits of secure children's homes as opposed to the 5 larger, privately-run secure training centres and YOIs.</p> <p>6 Q. I think an overall suggestion that they were safer or 7 better environments for children than YOIs or STCs?</p> <p>8 A. Absolutely. That certainly accords with my experience 9 and practice.</p> <p>10 Q. Perhaps I will just bring together the group of papers 11 that I think is part of the Howard League Commission on 12 Sex in Prison. It is INQ001595. 13 This was a piece of work done by The Howard 14 League -- is that right? -- to bring together the 15 experiences of former prisoners, and perhaps was the 16 first sort of research that had been done on this topic. 17 Is that fair, in this way?</p> <p>18 A. Yes. So it was a commission, a broad commission, that 19 resulted in a series of briefing papers looking at 20 a range of issues to do with sex in prison across the 21 secure estate, including -- sorry, you want to go just 22 on this particular paper. So this is the first one, 23 which is about the experience of former prisoners.</p> <p>24 Q. Yes. I think, linked with that -- we can just perhaps 25 bring up the front pages and adduce them -- there is, at</p> <p style="text-align: center;">Page 64</p> |

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| <p>1 1591, a particular paper about consensual sex among men 2 in prison. There is then, at 1594, perhaps a similar 3 paper about women in prison, but that deals with 4 coercive and consensual sex? 5 A. Yes. 6 Q. There was a separate briefing paper more generally at 7 1590 about coercive sex in prison. Perhaps most 8 pertinently for our proceedings, 1592 is the "Healthy 9 sexual development of children in prison" paper. 10 Perhaps scroll in on the final bullet points on that 11 page to give the panel the key findings there that were 12 made, which perhaps reflect things we have already 13 talked about: a high incidence of sexual abuse prior to 14 custody, or at least some will have been sexually abused 15 prior to custody; the restrictions on relationships; the 16 particular risk of LGBT children being bullied; sexual 17 abuse by other children or by staff does happen in 18 prison; high levels of violence; complex needs. So the 19 sorts of things we were talking about today; is that 20 right? 21 A. Yes, that's correct. 22 Q. Finally, Dr Janes, I think you were provided with 23 a three-page summary of submissions on reform that 24 Howe & Co have made. We can bring that up if we need to 25 at 1751, please. I think you were asked to review that</p> <p style="text-align: center;">Page 65</p> | <p>1 The issue of complaints I agree is absolutely very 2 important, and certainly the idea that children should 3 be able to access complaints without needing to single 4 themselves out to ask for one, but clearly children do 5 need extra support to make complaints sometimes and 6 encouragement in fact. 7 Q. Thank you. 8 A. I'm not going through every single one, so not 9 mentioning something doesn't mean I have formed a view 10 against it or anything like that. I'm just picking out 11 some of the things that strike me as particularly 12 important. 13 As I have already highlighted, the issue of the BAME 14 groups, the need for special care and attention to be 15 made in respect of the particular vulnerabilities and 16 the risk of abuse to BAME groups is incredibly important 17 and seems to be very important, and then certainly the 18 sex and relationships education, including the legal 19 education issue, as you have noted, for the reasons you 20 have said. So I hope that's of some benefit. I would 21 be happy to address further in writing some of these 22 points when I have had an opportunity to reflect on 23 them. 24 MS HILL: I'm sure that would be welcome. If you had 25 a chance to write a short letter just explaining your</p> <p style="text-align: center;">Page 67</p> |
| <p>1 summary of proposals for reform; is that right? 2 A. Yes, that was brought to my attention last night. 3 Q. Forgive me for that. Is there anything in particular 4 that you would like to draw out from that summary of 5 proposals that you think strikes you as an obviously 6 sensible idea or something that you would commend to the 7 panel? 8 A. I haven't had an opportunity to explore the 9 recommendations in great detail, but, clearly, some of 10 them do chime with some of the points that I have raised 11 in my statement. In particular, specialist training for 12 staff seems to be a very sensible idea, though 13 I certainly think it needs to be wider than just 14 focusing on sexual abuse. But the whole area of sexual 15 relationships and sexual development -- 16 Q. I think that might be covered under (xviii), sex and 17 relationships education, quite broadly, but also 18 training of staff on those issues I think is what you 19 are saying; is that right? 20 A. Yes, exactly. Certainly the idea of getting rid of 21 pain-induced control techniques would be something that 22 The Howard League would certainly agree with and that 23 I myself consider absolutely appropriate. The need to 24 have safe spaces in custody seems to be a very important 25 point.</p> <p style="text-align: center;">Page 66</p> | <p>1 views on any of the others you have not addressed, 2 I think that would be appreciated. 3 Thank you very much, Dr Janes, unless, chair, you 4 have any questions? 5 Questions by THE PANEL 6 THE CHAIR: Yes, I think there are a number of questions. 7 Let me begin. 8 In relation to restraint policies, I'm assuming 9 there are no custodial institutions for children that 10 have no restraint policies; is that correct? 11 A. That's my understanding. 12 THE CHAIR: I am aware that there are noncustodial 13 institutions for children who deal with very complex 14 needs and challenging behaviour who do indeed have no 15 restraint policies. 16 A. I couldn't speak to that from personal experience, but 17 I am certainly aware of -- for example, I was talking 18 just yesterday to a young person who had been in the 19 secure estate for many years and then went to 20 a therapeutic residential community for two years and 21 witnessed one restraint in the whole of those two years, 22 and that's a community that routinely has 15 residents 23 all with seriously troubled backgrounds and histories of 24 harmful behaviour. 25 THE CHAIR: I was interested as to whether there was any</p> <p style="text-align: center;">Page 68</p> |

1 research on the kind of criteria that listed when
 2 a restraint should be applied: for example, violence to
 3 staff, absconson or escape, as it is put, or damage to
 4 the environment. Are you aware of any kind of research
 5 that addresses that in either a no restraint policy
 6 institution or a restraint institution?
 7 **A. Could I just clarify, do you mean how those institutions**
 8 **deal with those issues?**
 9 THE CHAIR: If there is any impact on it -- did the level of
 10 violence to staff, for example, go up in a nonrestraint
 11 institution; was there more absconding; was there
 12 increased damage to the environment?
 13 **A. I don't know of any research, but in fact the**
 14 **establishment that I just referred to has been the**
 15 **subject of some very detailed longitudinal research**
 16 **about outcomes for young people by Gwyneth Boswell and**
 17 **that's incredibly positive research that's probably well**
 18 **worth a look at in terms of the success of that**
 19 **environment and, having visited that establishment, it**
 20 **seemed to be very calm and not to have any adverse**
 21 **impact at all on the staff or the children.**
 22 THE CHAIR: The second question is about any research
 23 evidence of links between sexually harmful behaviour of
 24 children in custodial institutions and violent behaviour
 25 either with children or adults. Is there any known

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1 relationship between the two?
 2 **A. In my experience, I think that is a research gap, to the**
 3 **best of my knowledge.**
 4 THE CHAIR: Thank you. Ms Sharpling?
 5 MS SHARPLING: Thank you, Dr Janes. Can I take you back to
 6 the remand population, if I may?
 7 **A. Yes.**
 8 MS SHARPLING: I think you mentioned at the beginning of
 9 your evidence that some 257 children were on remand in
 10 custody.
 11 **A. Yes.**
 12 MS SHARPLING: Forgive me if I have misunderstood.
 13 **A. That is absolutely correct.**
 14 MS SHARPLING: You also mentioned one of the reasons is the
 15 absence of provision of local authority alternatives.
 16 Is that correct?
 17 **A. In our experience as a casework team, we will quite**
 18 **often come across children who are remanded to custody,**
 19 **but, through liaison with their criminal legal team and**
 20 **theirs professionals, it becomes clear that they could**
 21 **be in the community but for a good package of support.**
 22 MS SHARPLING: I suspect that that's the answer to the
 23 question I am going to pose, because have you any idea
 24 in your experience or whether there has been any
 25 research or data in relation to any regional variations

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1 there might be in local authority provision?
 2 **A. In terms of for children that are on remand?**
 3 MS SHARPLING: Yes, for children who are on remand.
 4 **A. No, I think that would be a very worthwhile piece of**
 5 **research. Certainly from our own casework experience,**
 6 **when we do take up some of those cases and then go to**
 7 **the local authority and say, "Can you please make sure**
 8 **you comply with your duties under the Children Act 1989**
 9 **to provide suitable accommodation and support for the**
 10 **court to consider", we get a varying response. That**
 11 **would suggest there may well be some regional variations**
 12 **and that would certainly be helpful to look at.**
 13 MS SHARPLING: Thank you. Just for clarification purposes,
 14 you mentioned the 257 children. Are they in custody
 15 because of the absence of local authority provision or
 16 are there other reasons as well that you are simply not
 17 aware?
 18 **A. Again, without sort of looking at that cohort and going**
 19 **through the reasons as to each decision -- again, that**
 20 **would be a very worthwhile research exercise, I would**
 21 **have thought, given that that's a significant amount,**
 22 **but I couldn't say. Clearly, they may also just not**
 23 **meet the criteria for bail. The concern is that**
 24 **60 per cent will go on not to get a prison sentence and**
 25 **so there's been a disruption there that probably was not**

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1 **necessary.**
 2 MS SHARPLING: I understand that. Thank you very much,
 3 Dr Janes.
 4 THE CHAIR: Sir Malcolm?
 5 PROF SIR MALCOLM EVANS: Thank you. Just a quick question
 6 concerning the discussion concerning CCTV and body-worn
 7 cameras. Clearly, they address rather different
 8 circumstances and different potential issues and yet
 9 they seem to have got run together somewhat in the
 10 discussions.
 11 You have set out very helpfully the pros and cons,
 12 if I can put it that way, in the report, but what is
 13 your view of the propensity of these to act as an
 14 effective preventive measure in relation to child sexual
 15 abuse?
 16 **A. I think it is a question that's incredibly difficult to**
 17 **answer and it is not one on which I have entirely made**
 18 **up my mind, is my honest answer, because, on the one**
 19 **hand, it's presumably clear that if people are being**
 20 **watched and they know they're being watched and it's all**
 21 **being recorded, then that could be an extremely**
 22 **important protective factor, preventative factor,**
 23 **against abuse in the first place.**
 24 **On the other hand, everything we have said about**
 25 **having an artificially distorted childhood upbringing,**

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1 **having CCTV in every nook and cranny of your life and**
 2 **reinforcing the distortion of that development and the**
 3 **artificial nature of your life could also have a very**
 4 **negative effect on young people.**
 5 **I have to say that it is not something that I have**
 6 **formed a full view on at this stage.**
 7 PROF SIR MALCOLM EVANS: Thank you.
 8 MR FRANK: Just if you could help us, because you have
 9 indicated the very high number of children who are from
 10 a care background who end up in custody.
 11 **A. Yes.**
 12 MR FRANK: I want to ask you if you can assist us. Please
 13 don't feel you need to give an instant answer if you
 14 need to think about it, because it may not be easy to
 15 answer this question.
 16 You will be aware that under the Children Act 1989
 17 there are specific orders that a court can make in terms
 18 of the placement of children and contact and so forth
 19 under section 8 of the Children Act. But under
 20 section 9 of that Act, the only cohort of children who
 21 have no right to make an application for that order are
 22 those who it might be thought are the most likely to
 23 need it, namely, children in care.
 24 I wonder whether you can help us as to whether you
 25 think that's a situation that needs looking at to see

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1 whether the rights of children in care could be improved
 2 so as to help break the link between care and custody
 3 and in that way reduce the number of children who are in
 4 custody and at risk in the way that you have already, if
 5 I may say so, very clearly and helpfully described? It
 6 is rather a long question. Don't feel obliged to answer
 7 it instantly if you feel you need time to think about
 8 it.
 9 **A. In relation to the section 8/section 9 issue, I would**
 10 **prefer to come back to you in writing on that point.**
 11 **However, I would like to say something about the**
 12 **link between children in care and children in custody.**
 13 **In fact, The Howard League is currently involved in**
 14 **a two-year project working towards ending the**
 15 **criminalisation of children in care. It is absolutely**
 16 **the case that certainly older children who are in**
 17 **residential care are up to 15 times more likely to be**
 18 **criminalised than the children who live at home, and we**
 19 **have prepared some detailed briefings on these issues**
 20 **which I will be happy to supply to the inquiry.**
 21 **So there is a sort of, eventually, care-to-prison**
 22 **pipeline that is a real issue.**
 23 **Examples of things for which children have been**
 24 **criminalised that we have come across include children**
 25 **doing minor criminal damage, you know, for a cushion,**

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1 **all sorts of minor things that end up being part of**
 2 **their record of criminal convictions and of course suck**
 3 **them down further into the system. So it is a very**
 4 **important issue in terms of the proliferation of**
 5 **children in care and custody.**
 6 MR FRANK: Thank you very much indeed. I look forward to
 7 receiving whatever you are able to produce in due
 8 course.
 9 THE CHAIR: Just to follow on from Mr Frank's question, your
 10 reference to children in care, are you referring to all
 11 children looked after and accommodated away from home or
 12 those in residential or foster care? Are you
 13 distinguishing between the two?
 14 **A. The project that The Howard League is currently**
 15 **undertaking is very much based on residential care, so**
 16 **children in residential care. But the evidence I have**
 17 **given earlier today is more general about children in**
 18 **care, whether it is section 20 as looked-after children**
 19 **or on full care orders and regardless of**
 20 **the accommodation they are in.**
 21 THE CHAIR: Thank you very much, Dr Janes.
 22 MS HILL: Thank you very much, Dr Janes. Thank you for
 23 agreeing to provide some further evidence. As you know,
 24 our hearing is going to run until the end of next week,
 25 so anything you can provide us in the next week or so

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1 will be much appreciated. Thank you very much.
 2 (The witness withdrew)
 3 MS HILL: I am going to call, please, Chief Constable Simon
 4 Bailey.
 5 CHIEF CONSTABLE SIMON BAILEY (sworn)
 6 Examination by MS HILL
 7 MS HILL: Thank you very much, Chief Constable. You are
 8 Chief Constable Simon Bailey and you currently have
 9 responsibility as the national police lead for child
 10 protection and abuse investigation; is that right?
 11 **A. That's correct.**
 12 Q. Chief Constable, you provided three statements to the
 13 inquiry, which I will formally adduce, please:
 14 OHY003851; OHY004799; and OHY005251. Broadly, is this
 15 right, to assist the inquiry in understanding the ways
 16 in which police generally investigate child sexual abuse
 17 and specifically how child sexual abuse in custody can
 18 be investigated? Are those the two broad topics you are
 19 going to help us with?
 20 **A. That's correct.**
 21 Q. Thank you very much. I think you have been provided,
 22 Chief Constable, with a broad topics list that I propose
 23 to go through and try and pull out, if I can, some of
 24 the key points from your statement. There is also
 25 a significant number of documents of a policy nature

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| <p>1 that I might just flag up, if that's helpful.</p> <p>2 Help us just, please, briefly with how it is that</p> <p>3 a police force will judge nationally or find guidance in</p> <p>4 the way in which they should conduct an investigation</p> <p>5 into sexual abuse? What is the pool of material that</p> <p>6 provides national assistance to police forces?</p> <p>7 A. The pool of material is provided by the College of</p> <p>8 Policing under the authorised professional practice, of</p> <p>9 which there are myriads of different guidance which are</p> <p>10 all focused upon various areas of major investigations,</p> <p>11 child abuse investigations, best practice around</p> <p>12 interviews.</p> <p>13 The APP is built across and from a number of</p> <p>14 in-depth pieces of research which is put together by</p> <p>15 experts within the field. It then goes to the College</p> <p>16 of Policing's mechanism for the production of best</p> <p>17 practice and guidance and provides that framework with</p> <p>18 which police officers are able then to manage their</p> <p>19 investigations.</p> <p>20 Q. Just by way of example -- I don't think we need to pull</p> <p>21 it up -- there are a series of APP documents that</p> <p>22 perhaps bear on the issues that the inquiry is</p> <p>23 considering. There is one, INQ001397, that deals with</p> <p>24 complex child abuse investigations. There are others</p> <p>25 that deal with matters such as how to conduct a major</p> <p style="text-align: center;">Page 77</p> | <p>1 place in a young offenders' institution or a secure</p> <p>2 unit. Is that right?</p> <p>3 A. That's correct.</p> <p>4 Q. As a matter of general proposition, you say that the</p> <p>5 investigation of complex child abuse is time consuming</p> <p>6 and requires specialist skills from both the police and</p> <p>7 children's social care, it may also need input from the</p> <p>8 NSPCC; is that right?</p> <p>9 A. That's correct, yes.</p> <p>10 Q. You have referred the chair and panel, I think, to</p> <p>11 various pieces of legislation and guidance, and you have</p> <p>12 also noted that police may have access to the Local</p> <p>13 Safeguarding Children's Board websites?</p> <p>14 A. That's correct.</p> <p>15 Q. There may be local bespoke policies and guidance. Then</p> <p>16 help us with the PIP programme, the Professionalising</p> <p>17 Investigative Programme. Help us with that, please?</p> <p>18 A. The service has designed, developed and delivered four</p> <p>19 scales in terms of that professionalising investigative</p> <p>20 programme, ranging from PIP 1, which is your basic</p> <p>21 entry, which is around priority and volume crime</p> <p>22 investigations, so investigating a burglary or robbery;</p> <p>23 leading on to a PIP 2, serious and complex</p> <p>24 investigations, which detective officers would complete;</p> <p>25 then leading on to PIP 3, which is major investigations</p> <p style="text-align: center;">Page 79</p> |
| <p>1 investigation generally --</p> <p>2 A. That's correct.</p> <p>3 Q. -- that might apply. That's 001395. There are</p> <p>4 multi-agency arrangements for safeguarding -- that's at</p> <p>5 001399. Then there is perhaps more general guidance</p> <p>6 about the police response to concern for a child that</p> <p>7 may or may not apply to a child in custody -- that is</p> <p>8 INQ001401, and then I think the final one of these is</p> <p>9 INQ001403, and that gives, perhaps, key definitions of</p> <p>10 things like child abuse, child protection?</p> <p>11 A. That's correct.</p> <p>12 Q. And indeed has matters that might apply to a range of</p> <p>13 different settings?</p> <p>14 A. That's correct.</p> <p>15 Q. In addition to that sort of guidance, is this right,</p> <p>16 that police are also expected to read government</p> <p>17 guidance of more broad application, such as the</p> <p>18 Working Together guidance about which we will hear, the</p> <p>19 CPS guidelines on prosecuting cases of child abuse that</p> <p>20 I think have been disclosed -- INQ001432 -- and so those</p> <p>21 are the other pools of information, if I can call it</p> <p>22 that. Is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. One of the factors that would classify a child abuse</p> <p>25 disclosure as leading to a complex case is that it takes</p> <p style="text-align: center;">Page 78</p> | <p>1 aimed at senior investigating officers; and then PIP 4,</p> <p>2 which is aimed at detective chief inspectors, detective</p> <p>3 superintendents, detective chief superintendents, who</p> <p>4 are responsible for the strategic management of highly</p> <p>5 complex investigations.</p> <p>6 Q. They are all designed overall to try and deliver</p> <p>7 improved standards and benchmarking. Is that a fair</p> <p>8 summary?</p> <p>9 A. It is all around delivering a standardised investigative</p> <p>10 practice so that the Police Service is able to</p> <p>11 demonstrate the qualifications that officers have</p> <p>12 achieved and for NPCC, National Police Chiefs' Council</p> <p>13 officers, to ensure, when you have a high-profile</p> <p>14 investigation, a major investigation or a complex</p> <p>15 investigation, you can be assured that the appropriately</p> <p>16 accredited and qualified officers are overseeing and</p> <p>17 leading those investigations.</p> <p>18 Q. Just before I leave your first witness statement,</p> <p>19 a question I hope I put accurately on behalf of</p> <p>20 Howe & Co, the APP policy documentation, you indicate</p> <p>21 that there's guidance and policy around that, but is</p> <p>22 there any mandatory training for officers to learn the</p> <p>23 contents of the APP module on child abuse?</p> <p>24 A. When you look at the career of a police officer who</p> <p>25 joins the service, they go through their initial</p> <p style="text-align: center;">Page 80</p> |

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| <p>1 training, which of course has some form of investigative 2 element to that, then their 10 weeks of tutoring with 3 their tutor constable, within my own force officers then 4 come back for a further week in terms of sexual 5 investigations. Now, there is no mandatory requirement 6 for those officers to learn -- and I think we have to be 7 careful around the use of the word "learn". My 8 expectation is that officers that have undertaken the 9 specialist sexual offence investigation and development 10 programme, the specialist child abuse investigation 11 development programme, will know very well and 12 understand the requirements of authorised professional 13 practice. They will understand the legislative 14 framework in which they are operating. 15 Are they expected to be able to recite verbatim 16 what's within those documents? No. But to get that PIP 17 accreditation and for that continual assessment being 18 put in place, there is an expectation that they 19 understand the framework in which they are operating, 20 and, most importantly from my perspective, when they are 21 making operational decisions and they are making 22 reference to the practice or they are making reference 23 to stepping outside of the practice, a clear rationale 24 is applied to every one of those decisions that are 25 being made.</p> <p style="text-align: center;">Page 81</p> | <p>1 I draw on my own experience. I meet regularly with the 2 three prison governors for the prisons within Norfolk. 3 We have worked very closely with those three 4 institutions around the preservation of a scene, the 5 securing of evidence relating to a criminal offence, how 6 to package it, the forensic handling of it. So 7 I believe that's to be regularly common practice across 8 the service, that you have within your force areas 9 a community which is the prison, and we work very 10 closely with Prison Service colleagues to ensure that we 11 are doing our level best to secure and preserve evidence 12 so we have the best possible chance of securing 13 convictions, should that be appropriate. 14 Q. I think what you have described is your own practice in 15 Norfolk. 16 A. Yes. 17 Q. Would you hope that that sort of liaison is common 18 across the secure estate? 19 A. I would hope so, yes. 20 Q. So that other police forces are liaising with the 21 custodial institutions in their areas to preserve scenes 22 and things at the beginning of the investigation? 23 A. Yes, I would hope so. And the fact is, as soon as 24 a crime is reported, if it's happened in the immediate 25 past rather than the historic past, you would expect</p> <p style="text-align: center;">Page 83</p> |
| <p>1 Q. So effectively a justification for not following what's 2 set out in the APP? 3 A. Exactly. 4 Q. I see. Thank you. Moving to your second statement, 5 please, which is at 4799 -- we don't need to pull it 6 up -- you indicate that looking now at how a police 7 investigation might operate in a custodial institution, 8 one of the key issues you set out at (iv) is that if 9 there is to be a police investigation within a custodial 10 institution, that will be subject to the appropriate 11 permissions of the relevant governor or manager. 12 A. That's correct. 13 Q. Is that perhaps a matter of logic because of how 14 custodial institutions operate? 15 A. Yes, you can't just walk up to the door of the prison, 16 knock on the door and be let in. They are controlled 17 environments. They are under the control of that 18 governor. It is important that the appropriate 19 permissions are in place. 20 Q. That has one practical consequence as well, does it, the 21 custodial environment, which is that sometimes you, as 22 police officers, will find that certain initial 23 investigative steps have been taken by the staff within 24 the custodial institution? 25 A. Yes, and I would expect them to have done that. Again,</p> <p style="text-align: center;">Page 82</p> | <p>1 that scene to be closed down. So if it's taken police 2 in a cell, you would expect it to be closed down. 3 I know that prison staff are taught, educated, in 4 terms of what scene preservation looks like and exhibit 5 handling. I am not certain around levels of training 6 specifically around sexual offences. 7 Q. As far as secure children's homes are concerned, your 8 understanding, as you have said at (v), is that they 9 fall under the remit of local authorities and that 10 secure training centres are run by private companies. 11 The requirements for how they operate might be a little 12 bit different. Is that right? 13 A. That's correct. 14 Q. You have taken us to exhibit SB12, which deals with the 15 appropriate handling of crimes in prison. 16 A. Yes. 17 Q. I will come to that now if I may. If we can pull that 18 up, please, it's at OHY004799. 19 Just while we are bringing this up, this is an 20 agreed document between what was known as NOMS, the 21 National Offender Management Service, now HMPPS, the CPS 22 and ACPO about how crimes in prisons would be handled by 23 the police? 24 A. That's correct. 25 Q. Your understanding in terms of its scope is that it</p> <p style="text-align: center;">Page 84</p> |

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| <p>1 applies to all adult prisons -- sorry, I've given you 2 a bad reference. It is OHY004800. Sorry, that's my 3 fault. 4 It applies to YOIs as institutions but not to the 5 other two types of institution? 6 A. That's exactly what I understand, yes. 7 Q. I think you were asked some further questions about this 8 in your second statement, so perhaps you could just turn 9 to your second statement. At 3.1 on page 2 of that, you 10 confirm that you "understood our interpretation of this 11 document is that it applies only to YOIs." 12 You said this then: 13 "Companies that operate the secure training centres 14 should have requirements set out in their contracts and 15 service specifications." 16 They are not documents that you would hold, but you 17 would invite us to try and look and see whether those 18 documents help us understand what the equivalent regime 19 would be in an STC or an SCH. Is that fair? 20 A. That's fair. 21 Q. Then if we can scroll down to paragraph 8.1 of this 22 protocol, which is going to be 009 at the end, so it is 23 underscore 009, this sets out under the heading 24 "Investigation" a range of things that the prison 25 governor will ensure takes place before I think the</p> <p style="text-align: center;">Page 85</p> | <p>1 Is that right? 2 A. That's correct. 3 Q. So your understanding is that anything that is a sexual 4 offence falls within the category of things that should 5 be reported to the police by the prison? 6 A. That's correct. 7 Q. You were asked, I think, going back to your statement -- 8 we can take that down now. Going back to your second 9 statement, please, at 3.3.1, you said you "understood 10 that we had understood this correctly", and although 11 this protocol doesn't formally apply in secure training 12 centres or secure children's homes, you made clear that 13 you think that principle should apply? 14 A. That's correct. 15 Q. So you'd expect all STCs and SCHs to ensure that any 16 sexual offence is reported to the police? 17 A. I would. 18 Q. You have made some general points, perhaps just taking 19 this quite briefly, in your second statement, that the 20 police would investigate all kinds of sexual abuse. 21 Those are the sort of things -- particularly as well we 22 have asked about sexual abuse committed by an adult in 23 a position of trust and authority. That's exactly the 24 sort of thing the police would investigate? 25 A. Absolutely, yes.</p> <p style="text-align: center;">Page 87</p> |
| <p>1 arrival of the police. Is that right? 2 A. That's correct. 3 Q. Your understanding, therefore, is that this is what 4 should happen in a YOI where a criminal offence has been 5 reported; is that right? 6 A. That's correct, yes. 7 Q. We can see various different steps are set out, and the 8 panel can read that. 9 If we go back up, please, to paragraph 7.4 on the 10 previous page, this deals with the threshold for 11 reporting criminal offences to the police. I'm afraid 12 we need to look at 7.4 which says certain crimes listed 13 in annex B must be reported by the prison managers. 14 Then at 7.5, that other crimes may be if there are 15 particular aggravating factors or a particular local 16 agreement in place. So that's the structure of 17 the threshold? 18 A. That's correct, yes. 19 Q. Then if one goes to annex B, which is at underscore 017, 20 please, and we scroll in on the section B1, that has 21 a list of crimes that are in the sort of mandatory 22 reporting category, and that does include under (f): 23 "Sexual offences or other personal sexual violation 24 or where violence, or the threat of violence, was used 25 in the commission of the offence."</p> <p style="text-align: center;">Page 86</p> | <p>1 Q. You have set out, trying to pull it together as best 2 I can, some broad evidence about the sort of 3 investigative steps you would expect to be taken in 4 certain cases. Perhaps I can take you to section 3 of 5 your second statement. So this is -- perhaps we can 6 pull up, please, 4799_002. I will perhaps take you 7 through the headlines of what you were asked about. If 8 we can bring up on screen 4799_002. Just scroll in, 9 please, at 3.4. I think in fairness, Mr Bailey, you say 10 that it is difficult to be prescriptive about what 11 should happen in an investigation, but let's try and 12 just look at some of the key elements. Under (a) you 13 were asked about ABE interviews, achieving best evidence 14 interviews? 15 A. Yes. 16 Q. I'm sure the panel are familiar with it, but broadly 17 that is a methodology -- is this right? -- for trying to 18 secure the best evidence from a vulnerable person? 19 A. It's exactly that, yes. 20 Q. Help us, please, with understanding what your 21 expectation of that would be where a sexual offence has 22 been reported? 23 A. Well, first and foremost, I would expect there to have 24 been a strategy discussion between ourselves and 25 Social Services, so we truly understand all the detail</p> <p style="text-align: center;">Page 88</p> |

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| <p>1 within the information that's there. We would want to 2 understand who is the best person and who is best placed 3 to conduct the interview to make sure that the 4 facilities are there, what is in place. To make sure 5 that we are doing it obviously with the permission of 6 the governor or the head of safeguarding. We would want 7 to be able to look at what's the requirements around 8 that investigation -- so do we need to undertake 9 a medical investigation, first and foremost. 10 I would expect all those decisions to be recorded by 11 the senior investigating officer in terms of 12 the requirements put in place and the procedures that 13 have been followed and in what order and making it very 14 clear the rationale for that decision being made. 15 Q. I think, just taking you to some parts of your second 16 witness statement, you were of the view that it is 17 important that a child is interviewed in accordance with 18 those principles? 19 A. It absolutely is, yes. 20 Q. You say the principles of ABE interviewing should be 21 applied whatever institution the child is resident in, 22 be it familial or custodial. The overriding factor is, 23 what is in the best interests of the child? 24 A. That's correct. 25 Q. You have made the point at 5.1 of your second statement</p> <p style="text-align: center;">Page 89</p> | <p>1 A. That's correct, yes. 2 Q. Just briefly, if I may, you were asked questions about 3 medical examinations taking place. Generally, I think 4 you say that would be expected after an allegation of 5 abuse was made. You would generally expect eyewitnesses 6 to be contacted and statements taken. You would 7 generally expect video or photographic evidence to be 8 preserved. You have mentioned I think at 3.13 of your 9 second statement you're obviously familiar with 10 accessing the CCTV and body-worn camera footage from 11 custodial institutions for that purpose? 12 A. Yes. 13 Q. You were asked some questions about local policies, 14 whether or not there is a merit, as you say, in some 15 local areas having bespoke policies or guidance. You 16 were asked whether a standard national approach might be 17 better. What's your view on that? 18 A. I absolutely understand why there could be -- you know, 19 why people would think that it would be better to have 20 a standard national practice. However, the operating 21 environment across the country in terms of 22 the Police Service, in terms of children's services, 23 multi-agency safeguarding hubs, are all so very, very 24 different -- working within different funding envelopes, 25 working within different operational envelopes -- that</p> <p style="text-align: center;">Page 91</p> |
| <p>1 that it is not only police officers who can carry out 2 ABE interviews -- I think you have alluded to others 3 with those qualifications? 4 A. Yes. 5 Q. But that following those principles is an important 6 element of investigating sexual abuse? 7 A. Absolutely. And any deviation away from that, as 8 I said, needs to be very carefully recorded, and 9 a rationale made very clear as to why there's been 10 a deviation away from that. 11 Q. You were asked by the inquiry whether you'd have 12 concerns about a child in custody being interviewed in 13 a method that didn't follow the ABE principles. I think 14 at 5.3 of your second statement you said: 15 "It would depend on the circumstances and the 16 reasons. ABE principles for interview should be 17 applied. I can foresee occasions where interview 18 methods might not comply." 19 But, again -- for example, if it was a time-critical 20 situation, an imminent threat to life or harm, it may be 21 deemed appropriate that the initial interview might be 22 without ABE principles with ABE evidence at a later 23 stage. But either way, I think what you are saying is 24 a deviation from the ABE standard would have to be 25 documented?</p> <p style="text-align: center;">Page 90</p> | <p>1 actually to try and impose a national standard I think 2 would be to the detriment potentially of this, the 3 primary aim of safeguarding children. Ultimately, it is 4 down for local arrangements to be made where everybody 5 is working with the Working Together guidance to make 6 sure children are at the heart of this. But actually to 7 apply a national standard across I think would be to the 8 detriment, simply because of different operating 9 environments, different funding arrangements, different 10 resourcing levels, different estate. I think it would 11 make it very, very difficult. 12 Q. Just a few other questions, if I may, Mr Bailey. You 13 were asked some questions about the sort of cases when 14 Social Services might investigate an allegation rather 15 than the police. I think where your evidence concluded 16 at 4.2 of your second statement was that that might 17 happen even where what is alleged is a crime, 18 Social Services might conduct the investigation, but the 19 outcome or the reason why that might happen is because 20 there's been a strategy discussion between the two 21 agencies and it's felt to be in the best interests of 22 the child; is that right? 23 A. Absolutely. We are increasingly going to great lengths 24 not to criminalise children and young people, and 25 I think that's really important that we don't do that.</p> <p style="text-align: center;">Page 92</p> |

1 **It was pleasing to hear the evidence of the first**
 2 **witness this morning, the fact that those numbers are**
 3 **coming down, and I think it's important that we try and**
 4 **do our best, and we have a target to reduce the number**
 5 **of people actually going into the criminal justice**
 6 **system. So I think that's important. We should apply**
 7 **the right judgment when it's not the Police Service that**
 8 **is leading, but actually there are examples when it is**
 9 **absolutely right that it is not the Police Service that**
 10 **takes that lead role.**
 11 Q. Two more brief questions, if I may. The first question,
 12 you were asked some questions about the prevalence
 13 analysis that the inquiry has carried out, which
 14 suggests over 1,000 alleged incidents of sexual abuse
 15 between 1 January 2009 and 31 December 2017 in
 16 a custodial institution that had a low conviction rate,
 17 if you like.
 18 **A. Yes.**
 19 Q. Single figures of convictions. You were asked to try
 20 and explain that. Is it right that, really, you can't
 21 do that in the time available? It is too complicated an
 22 exercise to do?
 23 **A. I think it really needs some in-depth analysis for us to**
 24 **be able to draw any really reliable conclusions.**
 25 Q. Can you give us any sense of whether those sort of

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1 percentages are surprising? So 9 convictions out of
 2 over 1,000 allegations? Forgive me, 9 charges and 4
 3 convictions, sorry.
 4 **A. It is a really worrying statistic. Am I surprised?**
 5 **I think we really need to do some more work to**
 6 **understand the reasons why that is the case. We need to**
 7 **look at the profiles, the institutions, where it's**
 8 **happening, why it's happening, and I could start**
 9 **hypothesising, but I don't think that's particularly**
 10 **helpful. Actually, some in-depth analysis needs to be**
 11 **done.**
 12 Q. But is this right, that you regard it as worrying,
 13 firstly, because the number of allegations of incidents
 14 is very high, and, secondly, because the number of
 15 charges or convictions is very low? Are those the two
 16 reasons why it's concerning?
 17 **A. Yes, absolutely.**
 18 Q. I think linked with that the analysis suggested that
 19 police forces and local authorities were not able very
 20 easily to categorise incidents as being of sexual abuse
 21 of a child in custody and that rather hampered the
 22 obtaining of information. Do you have a view on that?
 23 **A. There is a real challenge for the Police Service, just**
 24 **in terms of, first and foremost, the accurate recording**
 25 **of crime, and we have definitely seen some significant**

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1 **improvements in crime recording. However, when you are**
 2 **then looking at that really -- the big data and trying**
 3 **to then draw all that data out of forces, being the**
 4 **national lead around child sexual exploitation, that has**
 5 **been a real problem and we have now put flags in place**
 6 **for that.**
 7 **There are some real complications around that with**
 8 **our own crime systems and how we go about recording**
 9 **that, but the clear fact is, we need to be in a better**
 10 **position to be able to understand the scale of abuse**
 11 **within institutional settings so we can then ask the**
 12 **questions as to why it is happening: is there a greater**
 13 **prevalence here; what are the profiles of abuse; what**
 14 **forms of abuse are taking place? I don't feel very**
 15 **comfortable, sitting here, not being able to provide you**
 16 **with an explanation that says that these are the numbers**
 17 **that we have had in terms of reports, these are the**
 18 **number of cases that resulted in some form of positive**
 19 **outcome and, if there has then been a charge, what the**
 20 **conviction rates are at Crown Court, which we are able**
 21 **to do with a wide variety of crime types. We are not in**
 22 **that position at this moment in time with child abuse**
 23 **data and in particular with child abuse data within**
 24 **institutional settings.**
 25 Q. Would there be merit, therefore, in being able to

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1 record, or indeed in requiring police forces to record,
 2 an allegation of sexual abuse in custody as specifically
 3 that?
 4 **A. Yes, I think there is.**
 5 Q. Thank you, Mr Bailey. My final question. I think you
 6 were asked, like the previous witness, to look over the
 7 proposals for reform that have been made by Howe & Co.
 8 That's the three-page summary that you were given.
 9 I appreciate some of these may not be within your area
 10 of expertise, but do you have any views to give the
 11 inquiry on the efficacy of some of these proposals or
 12 not?
 13 **A. I haven't had the chance to fully study the -- but what**
 14 **I would say is, half anticipating the question, I think**
 15 **understanding the profile of BAME groups particularly in**
 16 **the youth justice system, I think that is important, and**
 17 **certainly I would want to understand what is going on**
 18 **and to get far more data around those groups who are**
 19 **overrepresented. I think that is really important.**
 20 **I think that the second recommendation that follows,**
 21 **in terms of the police force and monitor links to gang**
 22 **members, and again risks them because, increasingly, the**
 23 **more research we are doing around child sexual**
 24 **exploitation, we are seeing CSE through gang-based**
 25 **offending, through county lines activity. That, again,**

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1 is a source of real concern for me. So they would be
 2 two areas I would particularly focus on.
 3 I would quite happily then look at and have
 4 conversations with colleagues that are in these
 5 institutions to look at the effectiveness. I know from
 6 my own personal experience that there is no doubt the
 7 wearing of body-worn cameras is making a big difference
 8 in the Police Service, but I am also acutely aware of
 9 the issues around the turning on and turning off of
 10 devices and the storage of data, and there are some real
 11 challenges around the volumes of data that we are now
 12 generating.
 13 If we were to make that recommendation, I think we'd
 14 really need to understand the implications of what that
 15 would mean. But I can see some benefits from it.
 16 Q. Finally, I should have just adduced paragraph 9 of your
 17 final statement, you did offer some views about "The
 18 culture within custodial institutions may well be such
 19 that they operate as barriers to disclosure". We have
 20 heard quite a bit about that. But you offered some
 21 views at paragraph 9 of your statement about that?
 22 A. Yes. But I think that's improving. I think those
 23 barriers are coming down. I think the working
 24 relationship between the Police Service and the
 25 Prison Service, from my perspective, is getting better

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1 and it is getting stronger, and as we are coming to
 2 terms with the horrors of the past in terms of the abuse
 3 that's taken place, I generally think there is a far
 4 greater awareness and understanding and appreciation of
 5 what we have got to do to meet the challenge.
 6 MS HILL: Thank you very much, Mr Bailey. Unless the chair
 7 or panel have any questions?
 8 THE CHAIR: Yes, Ms Sharpling?
 9 Questions by THE PANEL
 10 MS SHARPLING: Thank you, Mr Bailey. Just a couple of
 11 questions, if I may. Am I right in thinking that the
 12 College of Policing guidance, which we have seen in our
 13 bundles, is issued to all Police Services around England
 14 and Wales?
 15 A. That's correct.
 16 MS SHARPLING: But you can't say how well or how badly or
 17 whether indeed it's been implemented or not? Would that
 18 be fair to say? Because each chief constable will be
 19 operationally independent.
 20 A. Yes. Each chief constable is, as you very well -- is
 21 operationally independent. What I would say is, though,
 22 that every chief constable who is now looking at this is
 23 looking at Her Majesty's Inspectorates ongoing
 24 inspection of child protection arrangements, and one of
 25 the points of reference quite clearly is the authorised

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1 professional practice.
 2 MS SHARPLING: Thank you. Am I right in thinking that --
 3 I'm looking at the protocol that you have highlighted in
 4 relation to agreement between the CPS, the
 5 Prison Service and the Police Service.
 6 A. Yes.
 7 MS SHARPLING: Am I right in saying that the investigation
 8 requires a crime to be reported, that is the trigger
 9 mechanism in the protocol for an investigation to take
 10 place? Would that report normally come through
 11 a prison/youth offender institution official,
 12 a governor, for example? Would the report come via
 13 that, through there, or is it more likely to come from
 14 the young person who has made a phone call to the
 15 police?
 16 A. There will be routes in, but in lots of institutions now
 17 there are prison -- sorry, police officers embedded
 18 within those institutions. I imagine that if a prison
 19 officer is in receipt of a report, they will probably
 20 then go and raise that with the embedded police officer,
 21 who will then record the crime and then initiate an
 22 investigation.
 23 MS SHARPLING: Just one final question: the protocol also
 24 refers to the importance of intelligence in relation to
 25 this aspect of work, and I just wondered if you had

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1 anything to add about how far intelligence plays in the
 2 identification of this sort of offending?
 3 A. I would find that really difficult to answer that
 4 question. I would have to take that away and have
 5 a look at the background to allegations of offending and
 6 in terms of whether there was any intelligence that had
 7 been submitted beforehand. I am aware of good
 8 intelligence links and protocols that are now in place,
 9 but I haven't seen intelligence leading up to
 10 allegations that have then transpired to be an offence
 11 of sexual abuse.
 12 MS SHARPLING: Thank you. That's all I have to ask.
 13 MR FRANK: Thank you, Chief Constable. At the risk of
 14 testing the patience of a room full of hungry lawyers
 15 and other people, I am going to make this a very quick
 16 question, if I may: you commented very positively on the
 17 evidence of Dr Janes about the numbers falling, the
 18 number of children in custody. That was very positive.
 19 But you were also here when she said that in relation to
 20 safeguarding referrals, I think a rather less
 21 satisfactory response, namely, that children regard the
 22 outcomes for them in the safeguarding referrals as
 23 rarely positive. She gave a specific example, you will
 24 remember, of the 17-year-old in the young offenders'
 25 institute who made a complaint and because the prison

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1 regarded them as being uncooperative, he wouldn't have
 2 an interview, and all he needed was a shower and
 3 a telephone call. I don't want you to comment on the
 4 specific case, but generally, had that child been in
 5 police custody, unless there was some reason for the
 6 preservation of evidence, the chances are that child
 7 would have been allowed to have a shower and a phone
 8 call.
 9 **A. Yes, exactly.**
 10 MR FRANK: So when we look at the obstacles to the
 11 satisfactory outcomes, that's the sort of thing that may
 12 illustrate how we could improve things, by not putting
 13 obstacles in the way of children disclosing what, on the
 14 face of it, was quite a serious offence.
 15 **A. I absolutely agree. Again, I will take this**
 16 **opportunity. The observations around children being**
 17 **believed again resonated very strongly with me and just**
 18 **the importance. Again, that being a significant**
 19 **barrier.**
 20 MR FRANK: Thank you very much.
 21 THE CHAIR: Thank you, Mr Bailey.
 22 **A. Thank you.**
 23 (The witness withdrew)
 24 MS HILL: Perhaps we can take a slightly later lunchbreak?
 25 THE CHAIR: Thank you. We will return at 2.10 pm.

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1 (1.10 pm)
 2 (The short adjournment)
 3 (2.10 pm)
 4 MS HILL: Chair, just a matter of housekeeping. You will
 5 have on your timetable that we were due to read some
 6 evidence from Philip Noyes of the NSPCC. In fact, we
 7 will proceed to hear the live witnesses and we'll slot
 8 the read evidence in at another appropriate time.
 9 Mr Straw will ask some questions of Ms Hibbert.
 10 MS PAM HIBBERT OBE (sworn)
 11 Examination by MR STRAW
 12 MR STRAW: Chair, with your permission, I would like to
 13 adduce formally Ms Hibbert's two witness statements with
 14 URNs INQ001637 and INQ001750.
 15 Ms Hibbert, in your first statement, you explain
 16 your qualifications and experience.
 17 **A. Yes. I qualified many years ago as a social worker.**
 18 **I worked for over 30 years almost exclusively with**
 19 **either children in care or children in the criminal**
 20 **justice system. For the last ten years of my full-time**
 21 **working life, I was assistant director of policy and**
 22 **research for a large children's charity, and since then**
 23 **I have been working independently. I was a member of**
 24 **the government's Independent Restraint Advisory Board**
 25 **for four years and I have done a number of pieces of**

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1 **work which touch on safeguarding children in custody.**
 2 Q. I think you were the chair of the National Association
 3 for Youth Justice from 2009 to 2016?
 4 **A. I was.**
 5 Q. You also explain in your statement that, since 2010, the
 6 work you have undertaken has needed you to visit all
 7 types of establishments in the secure estate in England
 8 and Wales. You have been inside all the STCs, five YOIs
 9 and all but two of the secure children's homes that
 10 accommodate children remanded or sentenced for criminal
 11 matters. You have observed staff training and
 12 interviewed staff at all levels and have met with almost
 13 200 children either in groups or individually?
 14 **A. That's right.**
 15 Q. Do you draw on that experience in giving your evidence
 16 to the inquiry?
 17 **A. I do. Almost all my evidence is around that experience**
 18 **and my knowledge of the system.**
 19 Q. I think your overriding concern is that children can't
 20 be safeguarded in custody. Is that fair?
 21 **A. I think the culture of custody makes it very difficult**
 22 **to safeguard. I'd want to sort of add something to**
 23 **that. It's very difficult to guarantee the safety of**
 24 **children in any institution, but custodial institutions,**
 25 **by their nature, because they're closed, because there's**

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1 **little interaction with the outside world, I think do**
 2 **make it very difficult to protect them from a range of**
 3 **abuses.**
 4 Q. You mention in your statement power dynamics in
 5 custodial institutions, and suggest that there's a link
 6 between power dynamics and abuse?
 7 **A. Yes. I mean, clearly, children in custody, the power**
 8 **lies solely with those looking after them. We all know**
 9 **that deprivation of liberty in itself is the judicial**
 10 **punishment, if you like, for children. But the power**
 11 **lies with the people -- power and control lies with the**
 12 **people looking after them. For many of these children,**
 13 **I believe the system replicates what they have known in**
 14 **the outside world. We know a lot about the sort of**
 15 **children who end up in custody. They will have**
 16 **experienced neglect, abuse, chaotic lifestyles. We know**
 17 **quite a lot of them nowadays may be gang involved. So**
 18 **those sorts of dynamics, where the strongest person**
 19 **always wins, seems to me to be replicated in custody.**
 20 Q. Is that one of the factors that suggests there's a link
 21 between sexual abuse and power dynamics?
 22 **A. That's my belief, yes.**
 23 Q. You mention in your statement as well that you would
 24 contend that children are more vulnerable because of
 25 the closed nature of custodial establishments. Can you

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| <p>1 explain that in more detail? Why is it that they are 2 more vulnerable because of that? 3 A. Because contact with the outside world, in itself, is 4 a protective factor. Whether that's their friends, 5 relatives, social workers. But just generally. I have 6 to say, I think we have become more enclosed. Custodial 7 units have become more enclosed. I've been around 8 a long while. I remember in the 1960s, there was 9 wonderful White Paper called "The child, the family and 10 the young offender", which proposed the abolition of 11 Borstals, quite rightly, with an implication that 12 children should not be in custodial-type establishments, 13 they may need to be in secure. But we did have open 14 establishments where children could serve sentences. We 15 did have a greater degree of mobility where children 16 could go outside of the establishment or people can come 17 in. I would contend that's got worse in the last 18 decade. We have no open YOIs, for example, and the 19 mobility -- the ability for children to go outside the 20 establishment safely has been greatly reduced. So 21 I think they have become more enclosed rather than less 22 so. 23 Q. You have mentioned culture already. In your statement 24 you contend that YOIs and STCs have unhealthy cultures 25 with engrained negative attitudes. Can you expand on</p> <p style="text-align: center;">Page 105</p> | <p>1 staff about their own children or other children that 2 they know, they very clearly see the children they look 3 after in custody as different, that, yes, they will do 4 things like that because they are somehow different, and 5 it's back to that thing of, they're not seen as 6 children, I believe. 7 Q. On a slightly different topic, you were asked by the 8 inquiry some questions which led to your second 9 statement. The first question was to the effect, are 10 children better protected from sexual abuse in secure 11 children's homes as compared to young offenders' 12 institutions and secure training centres on the other 13 side. Can you explain your response to that, please? 14 A. I think I was asked two questions. One was, did I think 15 secure children's homes were better at safeguarding, and 16 there was another one around the mixture of children. 17 Any institution -- it is really difficult to say 18 that you can safeguard a child in any type of 19 institution -- children's homes, secure children's home, 20 mental health unit, whatever institution they are in, 21 they are vulnerable, and if they are vulnerable then 22 safeguarding them is complex and difficult. 23 I believe that secure children's homes -- two 24 reasons. One is that they are -- the ethos is 25 different. They are rooted in a social care tradition,</p> <p style="text-align: center;">Page 107</p> |
| <p>1 that? In what way are the cultures unhealthy? 2 A. I think it is the general attitude that I have observed 3 to the children who are placed there. There is 4 almost -- the starting point is that these are offenders 5 first and children second. So their needs as children, 6 their needs as vulnerable children, almost come at the 7 bottom of the list. 8 The focus is on control and containment. There is 9 an expectation, I believe, that children will behave 10 badly and need to be dealt with very firmly, and that 11 leads to that culture where their needs as children 12 aren't necessarily dealt with properly. 13 Q. You give some examples of things you have heard or seen 14 during your visit to STCs and YOIs, two of which are as 15 follows: a member of STC staff, during a training 16 exercise, saying it was okay to refer to children in 17 custody as "animals"; and a number of staff members 18 expressing a view that children would make malicious 19 allegations, but when questioned as to the evidence of 20 this, none was given, just that these children do that 21 sort of thing. Does that sort of attitude undermine 22 safeguarding, in your opinion? 23 A. I think it does, because it demonstrates their view that 24 children in custody are indeed somehow malicious and 25 will -- somehow "other". I know when I have talked to</p> <p style="text-align: center;">Page 106</p> | <p>1 so they are not rooted in criminal justice, even though 2 they take children who are there for criminal justice 3 matters. 4 The other question, which was around the mix of 5 children, my experience is that staff in secure 6 children's homes are actually much more aware of 7 the fact that they will have children there who may be 8 both victims and abusers, or indeed, as I say in my 9 statement, in many cases, one and the same. 10 I am less sure about that in other types of 11 custodial institutions. I certainly have experienced 12 things, for example, that staff in an institution will 13 not know that a child they are caring for has been on 14 the Child Protection Register or has been the subject of 15 previous abuse. So I think there's a greater awareness 16 of those issues in secure children's homes. 17 Q. So was it your view that secure children's homes better 18 safeguard children than the other two types of 19 establishments? 20 A. I think so, yes. 21 Q. Is there anything that the other two types can learn 22 from secure children's homes? Any practical steps that 23 can be taken to put practical measures in place in YOIs 24 and STCs that we can see working in SCHs? 25 A. I guess it depends what you mean by "practical</p> <p style="text-align: center;">Page 108</p> |

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| <p>1 measures". I think there's a lot of focus, and has been 2 over a number of years, about structural changes that 3 will increase safeguarding. So putting in safeguarding 4 officers, all the questions about CCTV and body cameras, 5 but they're structural, and, actually, it's culture and 6 ethos that would have to change. You know, I'm not 7 denying that there can be a use for some of 8 the structural things and they can help with 9 safeguarding, but having, you know, body cameras worn by 10 people who have just the same attitude to the children 11 they're caring for is probably not going to improve 12 things greatly.</p> <p>13 Q. You express disappointment in your statement about the 14 decrease in the number of youth justice places 15 commissioned in secure children's homes. Does that, 16 again, reflect your view that children are better 17 protected in secure children's homes?</p> <p>18 A. Yes, I think so. But I think there's a general point 19 about -- Dr Janes this morning told you about the 20 numbers, the great reduction in numbers, and I think 21 it's a great pity that the money that was saved by 22 reducing those numbers could not have been reinvested 23 back in the system to actually improve things for the 24 much smaller number of children who are now in custody, 25 and that could have been around paying for more secure</p> <p style="text-align: center;">Page 109</p> | <p>1 Q. You go on to touch on the privatisation. You say you 2 believe that the responsibility for treatment and care 3 of detained children, among others, should lie with the 4 state, and the focus on contract compliance, coupled 5 with the need to maximise profits for shareholders, has 6 already proved to put children at risk in 7 privately-run-for-profit STCs. Can you explain what you 8 meant by that, that it's already been proved to put 9 children at risk?</p> <p>10 A. Well, we have had two children who have died in 11 privately-run STCs and we have the Medway expose of 12 the abuse that happened there to children. That is my 13 personal view. I think if the state deprives someone of 14 their liberty, particularly a child, the state should be 15 responsible for the care of them; not that the state 16 always gets it right, but I think those are exacerbated 17 when you're talking about contract compliance and for 18 profit.</p> <p>19 Q. You go on to talk about staffing numbers, and in 20 particular about whether staffing for children detained 21 in YOIs has reduced. This is over in question 3 of your 22 second statement. Could you tell the panel, please, 23 about your understanding of whether staffing levels per 24 child have reduced recently?</p> <p>25 A. You'll have to forgive me, because this is not my area</p> <p style="text-align: center;">Page 111</p> |
| <p>1 children's home beds, yes.</p> <p>2 Q. One of the knock-on impacts of that reduction in 3 children that you note in your statement is that the 4 closure of secure children's homes and YOIs has meant 5 that children are increasingly placed further away from 6 their families and communities and the regular contact 7 with relations, friends, social workers, YOT workers, 8 et cetera, is a safeguarding measure. Can you explain 9 first -- it may be obvious -- why regular contact with 10 families, friends, and so on, is a safeguarding measure?</p> <p>11 A. I think I say in my statement at some other point that, 12 you know, my experience and the interviews I have done 13 with children suggests that if they are going to talk 14 about abuse, be it historic or current, it is rarely to 15 someone in the establishment. They will tell their gran 16 on their friend or sometimes their social worker if they 17 had a good relationship with them.</p> <p>18 If the opportunities to do that are limited, then 19 that obviously increases the risk for them. So I think 20 that geographical spread -- for example, there is no 21 secure children's home in the south-east of England in 22 the Greater London area. You know, if you go to custody 23 in London, you will go to Feltham. There isn't an 24 option. So that geographical difference I think, yes, 25 does make -- increase the risk.</p> <p style="text-align: center;">Page 110</p> | <p>1 of expertise. My understanding is, there was a change 2 when there was benchmarking in the Prison Service about 3 how many staff were needed, and obviously there have 4 been cuts in budgets. So I -- if there have been those 5 major reductions in budgets and staffing, it's very 6 difficult to see how that can't have impacted on the 7 ability to safeguard.</p> <p>8 Again, I say in my statement I visited a YOI 9 in April where a prison officer told me that routinely 10 one member of staff to 40 children was not unusual. 11 It's very difficult to see how you can meet even the 12 basic day-to-day living needs much less any proactive 13 safeguarding.</p> <p>14 Q. Further on, you note there is a consensus that there is 15 a significant under-reporting of abuse of any sort by 16 children in custody. I would just like to try to 17 explore some of the barriers that there may be to 18 children reporting abuse, and starting off with the 19 question of children's views of staff in custody. Could 20 you explain, from the children you have spoken to, how 21 did they view staff? Did they see staff as someone they 22 could disclose something sensitive, like being sexually 23 abused, to?</p> <p>24 A. In any sort of establishment, children have varying 25 views and there are differing staff. So children have</p> <p style="text-align: center;">Page 112</p> |

1 talked to me about staff that they get on well with,
 2 staff that they don't like -- you know, we are all
 3 human: we like people, we don't like people. But
 4 I think, overwhelmingly, the children I have spoken to
 5 do not feel that, at the crunch, the staff who look
 6 after them would put their interests before those of
 7 the establishment. I think that would be the fairest
 8 way to put it.

9 Q. What about the complaints system? Did the children you
 10 spoke to have faith in the complaints system?

11 A. Very little. In fact -- yes, very little. And
 12 complaints -- where they used it, it tended to be for
 13 matters that perhaps were more easily resolvable, like,
 14 you know, "I asked for an extra pillow and I couldn't
 15 have it". Those sorts of minor things. But in terms of
 16 major things, none of the children that I spoke to would
 17 have considered using the complaints system to say
 18 someone had abused them, for example.

19 Q. You quote some of the things that children have said.
 20 For example:

21 "It's pointless, they [complaints] don't go
 22 anywhere. I don't think they would take it seriously.
 23 Nothing happens. They [staff] just look out for
 24 themselves."
 25 You also suggest that children were concerned that

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1 there would be some form of retaliation against someone
 2 who makes a complaint?

3 A. Yes, that was certainly expressed by some of
 4 the children I spoke to. I think generally, though, it
 5 was that feeling, as I just said, that the establishment
 6 would always put its own protection and needs before
 7 that of the individual child.

8 Q. When you say "retaliation", can you expand on that?
 9 Could it be anything or do you have --

10 A. Yeah, I mean, it varies. I've certainly heard children
 11 talk about, you know, being singled out, taken to
 12 a corridor where there was no CCTV and threatened, at
 13 the extreme end. At the other end, it may just be that
 14 they didn't earn their reward points. You know, they
 15 had some reward points docked because they were making
 16 a nuisance of themselves.

17 Q. In response to questions 8 and 9, you mention a number
 18 of other factors that may lead to non-disclosure.
 19 I will just read that out:

20 "Reasons for non-disclosure of abuse are varied and
 21 complex. Children may feel ashamed, that they are at
 22 fault, do not want to get someone into trouble or, as
 23 already noted, feel that there is no point. Deprivation
 24 of liberty in itself renders a child powerless and for
 25 many of them their previous experiences will not have

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1 been ones that lead them to trust adults. In 2015-16,
 2 the average length of time a child spent in custody was
 3 118 days and it is therefore difficult to see how trust
 4 can be developed to such an extent that a child would
 5 disclose to staff even if the relationships were good."

6 Again, it may be an obvious question, but in your
 7 view, is it likely to be important that a child trusts
 8 the person that they disclose abuse to?

9 A. Absolutely. They have to feel that they're going to be
 10 believed and that something will happen. To disclose
 11 something, particularly around sexual abuse, is really
 12 difficult. Again, the whole topic of sexual abuse is
 13 not my particular specialism, but I have certainly
 14 worked with children who have been sexually abused, and
 15 the whole complex raft of feelings that go with talking
 16 about it.

17 I was reading the transcript of some of the evidence
 18 that was given yesterday by victims, and it's really
 19 difficult to talk about it. To talk about it to someone
 20 that they don't trust or don't feel will believe them is
 21 impossible almost, I would suggest.

22 Q. Given what you say about staff, in your view, is it
 23 important for there to be an independent person whom the
 24 child can trust who is available for the child to
 25 confide in when they are in custody?

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1 A. I think that's really difficult, and I don't want to
 2 talk about any particular person who may or may not go
 3 into an establishment, but, again, it's the same issue:
 4 if you have someone going in once a week who is the
 5 independent person, that's great, they can be there,
 6 they can be observed; but if that child doesn't know or
 7 trust them, again, I would suggest they're unlikely to
 8 confide in them something as sensitive as sexual abuse.

9 When I interviewed children specifically, it wasn't
 10 about abuse, it was about the use of restraint. But one
 11 of the questions was, you know, if you were concerned,
 12 who would you tell? And a couple of them named someone
 13 in the establishment, a member of staff they got on
 14 particularly well with, but the vast majority talked
 15 about someone they already knew outside the
 16 establishment: my nan, my friend, my social worker.
 17 They didn't talk about people within the establishment
 18 that they would tell.

19 Q. What about advocates? Is that a system that's currently
 20 effective or potentially effective?

21 A. I think it's important that children have advocates,
 22 that there is someone they can go to who is independent
 23 who can represent their views. I am less sure, again,
 24 for the same reasons, whether they would disclose
 25 something around -- about sexual abuse to an advocate.

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| <p>1 Q. In your statement, you say:</p> <p>2 "It might be useful to consider a review of current</p> <p>3 advocacy services in custodial establishments: are they</p> <p>4 truly independent; do children see them as a route for</p> <p>5 expressing concerns; does the current contract contain</p> <p>6 any safeguarding expectations; should/could they have</p> <p>7 a more enhanced safeguarding role?"</p> <p>8 Is it your view from that that they are potentially</p> <p>9 helpful but not clear whether they're effective at the</p> <p>10 moment?</p> <p>11 A. I think it's worth reviewing, to have a look at that,</p> <p>12 because they -- the problem with advocacy is, if you</p> <p>13 like, the responsibility for approaching the advocate</p> <p>14 and talking about what you want lies with the child, and</p> <p>15 the advocate's responsibility is then to relay and</p> <p>16 represent what the child tells them and represent their</p> <p>17 views.</p> <p>18 It seems to me that, if you are having an</p> <p>19 independent person in there, there may be a role for</p> <p>20 perhaps probing a little more when a child comes to see</p> <p>21 them. We know that children don't always say what it is</p> <p>22 they really want to say, and if a child comes to you as</p> <p>23 an advocate, saying, you know, "I want another pillow",</p> <p>24 that might be because actually they want to talk about</p> <p>25 something else. But at the moment my understanding is,</p> <p style="text-align: center;">Page 117</p> | <p>1 policies and procedures."</p> <p>2 The fourth bullet point:</p> <p>3 "Some staff said that they feel that they are not</p> <p>4 properly trained, equipped or supported to work</p> <p>5 effectively with children and young people."</p> <p>6 Did those points apply solely to mental health</p> <p>7 professionals, or were they broader?</p> <p>8 A. No, they actually, in fact, were about the frontline</p> <p>9 staff, so prison officers specific -- particularly in</p> <p>10 YOIs. The fourth bullet point, about the staff feeling</p> <p>11 not properly trained, was very much in YOIs, where POs,</p> <p>12 you know, had been in the general Prison Service and</p> <p>13 then moved into YOIs.</p> <p>14 I should say, there have been some improvements in</p> <p>15 training for POs in the YOIs in the intervening years</p> <p>16 since this report was published. I still don't remain</p> <p>17 convinced that it's enough, but there have been some</p> <p>18 improvements.</p> <p>19 Q. Page 43, please, 043. Down towards the bottom, you have</p> <p>20 a section on safeguarding and a box "Areas of concern".</p> <p>21 The second bullet point of which says:</p> <p>22 "Failure to address disclosure or provide a safe</p> <p>23 environment in which to discuss abuse."</p> <p>24 Can you explain that in a bit more detail, please?</p> <p>25 A. Yes, that was, again, specifically around children who</p> <p style="text-align: center;">Page 119</p> |
| <p>1 there isn't a role for the advocates in probing that or</p> <p>2 indeed in being part of that safeguarding mechanism.</p> <p>3 Q. I'd like to turn, then, to three reports, please. The</p> <p>4 first of them is the "I think I must have been born bad"</p> <p>5 report. This is INQ001420. I would be grateful if that</p> <p>6 could be brought up on screen:</p> <p>7 "I think I must have been born bad: Emotional</p> <p>8 well-being and mental health of children and young</p> <p>9 people in the yourself justice system", from June 2011.</p> <p>10 What was your involvement in that report?</p> <p>11 A. I led the piece of work for the Children's Commissioner</p> <p>12 on producing that report and managed the steering group</p> <p>13 and provided the secretariat for it and was involved in</p> <p>14 all the visits that we did to establishments and other</p> <p>15 services for that report.</p> <p>16 Q. Can you turn up page 12, please, 012. There are</p> <p>17 a series of specific findings in the secure juvenile</p> <p>18 estates here. Then over at page 013, please, at the top</p> <p>19 of the page it's noted:</p> <p>20 "Many staff demonstrated a lack of knowledge and</p> <p>21 support in complying with existing professional</p> <p>22 guidelines ..."</p> <p>23 Second bullet point:</p> <p>24 "There are discrepancies between stated local policy</p> <p>25 and procedure and how frontline staff implement those</p> <p style="text-align: center;">Page 118</p> | <p>1 in custody disclosed previous abuse, abuse that had</p> <p>2 happened before they came into custody, and there was</p> <p>3 a real issue around that not being recorded properly,</p> <p>4 not involving the local authority, both in the area</p> <p>5 where the custodial unit was and in the child's own</p> <p>6 local authority. So that was specifically -- sorry, it</p> <p>7 doesn't make it clear in the report -- around abuse that</p> <p>8 had occurred before custody.</p> <p>9 Q. The next report, I'd just like to flag it up, is</p> <p>10 INQ001440. Did you have any involvement in this report?</p> <p>11 A. No, I didn't.</p> <p>12 Q. I will move on, then, to the final point, which is</p> <p>13 INQ001598, a report by Dr Tim Bateman in 2017 for the</p> <p>14 National Association of Youth Justice entitled "The</p> <p>15 state of youth justice 2017. An overview of trends and</p> <p>16 developments". Can you have a look at page 3, headed</p> <p>17 "A missed opportunity". There Dr Bateman, in the second</p> <p>18 column, eight or so lines down, writes that a number of</p> <p>19 key recommendations from the Taylor Review were rejected</p> <p>20 or ignored by the government. For example, Taylor</p> <p>21 details a range of principles and assumptions which he</p> <p>22 considers should inform arrangements for dealing with</p> <p>23 children in conflict with the law. These include:</p> <p>24 "A focus on the child first and the offender</p> <p>25 second."</p> <p style="text-align: center;">Page 120</p> |

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| <p>1 He then lists a number of other bullet points before 2 noting: 3 "By contrast, the government, in the first line of 4 its response, makes reference to the youth justice 5 system's central role in 'punishing crime' ..." 6 Do you share the concerns that Dr Bateman raised 7 there? 8 A. I do. I should say that this report is completed 9 annually. There is a report called the same title done 10 every year by Dr Bateman for NAYJ. But, yes, certainly, 11 I absolutely agree with that. We have moved, it seems 12 to me, almost backwards in terms of regarding children 13 in trouble as children rather than offenders. It was 14 very disappointing that the government rejected that 15 recommendation from the Taylor Report. 16 Q. The only other point from this report I would like to 17 flag up is page 55, please, 055. In the top left, 18 Dr Bateman, something like eight or so lines down, says: 19 "Research suggests that the size of the 20 establishment and staff-to-child ratio (in combination 21 with a care-based ethos) are fundamental to ensuring 22 a child-friendly provision." 23 Is it your understanding that he meant smaller 24 establishments with higher staff-to-child ratios and the 25 care-based ethos are the fundamentals?</p> <p style="text-align: center;">Page 121</p> | <p>1 think it's acceptable to hurt them in order to make them 2 stop doing something. 3 You know, abolishing the use of chemical restraints, 4 absolutely; getting better data, absolutely. 5 But I still think they are structural changes which 6 may help, but my belief is, we need a fundamental 7 rethink about what we do with children who need to be 8 detained for their own protection or for the protection 9 of the public, and that is certainly to remove them from 10 Prison Department custody. Some of those will help, but 11 they are structural. They won't change the fundamental 12 system, I believe. 13 MR STRAW: Those are all my questions. Does the panel have 14 any questions? 15 Questions by THE PANEL 16 THE CHAIR: Thank you. Returning to the question of 17 restraint, do you think the criteria for the use of 18 restraint and strip searching, as we have heard in the 19 course of the hearing, are the right criteria to apply? 20 A. I think the issue of restraint, despite the work that's 21 been done on that, it's still a huge problem. I think 22 it's very interesting that in YOIs they still refer to 23 it as "use of force". You know, language is very 24 important. And "use of force" is something different 25 from "restraint", I think.</p> <p style="text-align: center;">Page 123</p> |
| <p>1 A. Yes, that's my understanding; he does. I think the -- 2 sorry. It is really complex. Dealing with children who 3 offend, who also have a whole vast range of other needs, 4 is complex. I think some of the children -- although 5 the numbers have gone down, some of the children in 6 custody exhibit very challenging behaviour. What 7 I don't believe is that the way we should respond to 8 that behaviour is by increasing confinement, control, 9 use of restraint, et cetera. 10 Certainly the staff-to-child ratio is twofold: one 11 is that if you have got good staff in adequate numbers 12 who are trained properly, who understand children and 13 child development, you are going to stand a better 14 chance of rehabilitating those children, but a larger 15 staff group, a more varied staff group, again, in 16 itself, is a safeguard. 17 Q. The last area of questions is about Howe & Co's 18 proposals for reform. Have you received those? 19 A. I have. 20 Q. Would you like to make any comment on those proposals? 21 A. I think, in themselves, you know, there is not any of 22 them that I could say I object to, and some of them -- 23 particularly the use of pain-induced control 24 techniques -- should not be allowed, absolutely. 25 I can't think of any other group of children where we</p> <p style="text-align: center;">Page 122</p> | <p>1 I certainly don't think children should be 2 restrained for good order and discipline. It's 3 interesting, if you look at, perhaps, secure 4 establishments in other countries where the use of -- 5 they have a restraint policy, they have restraint 6 methods in place, but the use is extremely low. 7 I visited some children's secure establishments in 8 Spain. I asked about the numbers of restraint in the 9 year that I was there, and there had been ten in the 10 year, which is extremely low compared to the figures 11 here. 12 So I think we are getting it wrong somewhere. 13 THE CHAIR: Thank you. Ms Sharpling? 14 MS SHARPLING: Thank you. In your many years of experience 15 visiting institutions of the type we have talked about 16 this afternoon, have you ever seen what I would call 17 a comprehensive sex abuse prevention strategy and by 18 distinguishing that from a series of rules about 19 behaviour? 20 A. No, is the short answer to that. All the establishments 21 will have a safeguarding policy and process. When 22 I have seen anything about sexual abuse, it has been, 23 again, about focusing on a child disclosing previous 24 sexual abuse, not about current or how to prevent it 25 within the establishment.</p> <p style="text-align: center;">Page 124</p> |

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| <p>1 MS SHARPLING: Thank you. 2 THE CHAIR: Thank you very much, Ms Hibbert. 3 A. Thank you. 4 (The witness withdrew) 5 MS HILL: Thank you, chair. Chair, I see the time. 6 I wonder if we might take our mid-afternoon break and 7 then I perhaps can take Professor Hardwick's evidence in 8 one go. That might be fairer. 9 THE CHAIR: We will return at 3.00 pm. 10 (2.46 pm) 11 (A short break) 12 (3.00 pm) 13 MS HILL: Thank you, chair. Two matters of housekeeping, 14 please, before Professor Hardwick is sworn. One matter 15 of housekeeping to do with the witness timetable, chair. 16 We have on our witness timetable a proposal to call 17 Mr Mark Johnson to give evidence on the morning of 18 Thursday, the 12th, that's tomorrow morning. He will 19 not be giving evidence now tomorrow morning and we will 20 make other arrangements for him to be giving evidence at 21 a different time. I'm just announcing that for the 22 record. 23 Secondly, before Professor Hardwick is sworn, 24 I should mention that both Ms Sharpling and 25 Professor Evans have rightly brought to my attention</p> <p style="text-align: center;">Page 125</p> | <p>1 background, is that right, that you are giving evidence 2 to the inquiry? 3 A. Correct. 4 Q. But in fairness, you have a much broader background in 5 criminal justice: a professor of criminal justice, you 6 have been Chair of the Parole Board, and you have 7 extensive experience of the youth justice estate about 8 which we are hearing? 9 A. Correct. 10 Q. You were asked initially a series of questions by the 11 inquiry, and I would like to just take you briefly 12 through those. They begin at section 10 of your first 13 statement, if you wish to have it open in front of you. 14 You were essentially asked some quite high-level 15 questions about the systems in place to protect children 16 in custody from sexual abuse. 17 You explained in the statement the provision for 18 inspection of the different institutions and just to 19 refresh the memory perhaps of the chair and panel, the 20 role of the inspectorate, HMIP, is to lead inspections 21 of YOIs and STCs with the support of Ofsted and the CQC; 22 is that right? 23 A. Not quite. So there's a slight error in what I put. So 24 we led inspections of YOIs and, since 2012, we joined 25 inspections of STCs that were led by Ofsted.</p> <p style="text-align: center;">Page 127</p> |
| <p>1 that they were professionally acquainted with this 2 witness when he was Chief Inspector of Prisons: 3 Ms Sharpling through her role as HM Inspector of the 4 Constabulary; and Professor Evans through his role as 5 Chair of the UN Subcommittee on the Prevention of 6 Torture. 7 I should also have indicated, chair, before 8 Chief Constable Bailey gave his evidence that you and 9 all the panel members of course are professionally 10 acquainted with him as he heads Operation Hydrant. 11 Thank you very much. 12 I will now proceed, please, to call 13 Professor Nick Hardwick. 14 PROFESSOR NICK HARDWICK (sworn) 15 Examination by MS HILL 16 MS HILL: Thank you very much. Professor Hardwick, you have 17 provided the inquiry with a statement NHK000003, a short 18 letter NHK000002, and a further letter, INQ001757. 19 Chair, with your permission, I would like to formally 20 adduce those documents from Professor Hardwick and then 21 ask you some questions, if I may, about some of the key 22 themes that you bring out in those statements. 23 Professor Hardwick, as is well known, you were 24 HM Chief Inspector of Prisons from June 2010 25 to January 2016. It is in particular with that</p> <p style="text-align: center;">Page 126</p> | <p>1 Q. Yes, I think you went on to say that. Forgive me for 2 summarising it. You were asked some general questions 3 about the nature of custody and I think this is what you 4 say, is it, that there are very serious risks that 5 children in custody may be subject to sexual or other 6 forms of abuse. Just briefly give us your views on why 7 that is? 8 A. That is my view, and I think it is borne out by the both 9 current and historical evidence. I think there are 10 a number of reasons for that. First of all, these are 11 closed institutions and so it is very difficult for 12 somebody outside those institutions, whether even an 13 inspector or an official visitor of some sort, to get in 14 and see what's happening, and to see things other than 15 those which you are shown. So that's the first reason. 16 The second reason is the power imbalance between 17 staff and the, in this case, children that are held, 18 which is not simply a question of staff have keys and 19 can lock you in your room or are allowed to use force on 20 you, but all the little things you need or want in 21 life -- a second helping of food, a chance to ring your 22 mum, a toilet roll, whatever it might be, you are 23 dependent on the goodwill of staff to give it to you. 24 And then, if you do complain, who is going to believe 25 you? You are a child and you are a criminal, and you</p> <p style="text-align: center;">Page 128</p> |

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| <p>1 may have other problems as well.</p> <p>2 Q. So there are credibility issues, you say?</p> <p>3 A. There are credibility issues and then, on top of that,</p> <p>4 there's --</p> <p>5 Q. Just for the panel's note, you are actually going</p> <p>6 through the factors on internal page 10 of your first</p> <p>7 statement.</p> <p>8 A. Yes.</p> <p>9 Q. Carry on, please.</p> <p>10 A. Then it's a question of normalisation, by which I think</p> <p>11 staff and children get used to things that they</p> <p>12 shouldn't get used to. They can both be about</p> <p>13 ill-treatment, physical ill-treatment, but it can be</p> <p>14 that they get used to the place being dirty or they get</p> <p>15 used to other things. I think sometimes also what</p> <p>16 happens is that management of a place relies much too</p> <p>17 much on the data it's getting rather than what it's</p> <p>18 actually seeing happening down on the wings, and I think</p> <p>19 particularly so for children, there is not merely the</p> <p>20 question of what's happened to them while they are in</p> <p>21 a particular institution, it is their experience of</p> <p>22 abuse beforehand. If grim things are happening to them,</p> <p>23 it's not -- it's part of a pattern that's often affected</p> <p>24 them throughout their lives. It is all of those things.</p> <p>25 So you have these very vulnerable children in a very</p> <p style="text-align: center;">Page 129</p> | <p>1 the impact of those is?</p> <p>2 A. I am very concerned about the use of pain compliance</p> <p>3 techniques and have been consistent about that. I think</p> <p>4 you can make a scientific case that in the safety of</p> <p>5 a training room a pain compliance technique may be less</p> <p>6 dangerous than a prolonged hold. But when you -- but</p> <p>7 you aren't doing it in the rarefied atmosphere of</p> <p>8 a training room. When you are doing it in an</p> <p>9 environment that can't be properly supervised, where,</p> <p>10 for new staff, a lot of your training is going to be how</p> <p>11 to hurt children safely, when you're a member of staff,</p> <p>12 you're underpaid, you've got a stroppy kid not wanting</p> <p>13 to go into their room, your shift is about to end,</p> <p>14 you've got to go somewhere else and you can do something</p> <p>15 nasty to their thumbs, get them in their room that way</p> <p>16 and you can go off shift. I think that starts to</p> <p>17 pervade the culture.</p> <p>18 You can't say to a child these are -- you know, "You</p> <p>19 can complain if a member of staff assaults you, but</p> <p>20 you've got to understand that's different from pain</p> <p>21 compliance, that's allowed". How is a child to</p> <p>22 understand that? It normalises it for staff and it</p> <p>23 normalises it for children and it should be stopped.</p> <p>24 Q. I think you have made the point, Professor, in your</p> <p>25 brief letter to the inquiry that's at NHK000002, that</p> <p style="text-align: center;">Page 131</p> |
| <p>1 dangerous place.</p> <p>2 Q. Just to flesh out, if I may, Professor, a few of those</p> <p>3 points, you have drawn a little bit in your analysis</p> <p>4 here on what we know about what happened at Medomsley.</p> <p>5 One of the points you have made about Medomsley is that</p> <p>6 the extent of abusive behaviour by staff at secure</p> <p>7 training centres was only partly identified by</p> <p>8 inspection, but also Medomsley is another example of</p> <p>9 things going on for years without it being found out</p> <p>10 about?</p> <p>11 A. And I think in that case the children did complain and</p> <p>12 weren't believed, and I think that's relatively typical.</p> <p>13 Q. You have said that well-informed official visitors did</p> <p>14 not see what was happening?</p> <p>15 A. They certainly didn't at Medomsley, and I think</p> <p>16 certainly the number of people who should have seen what</p> <p>17 was happening at Medway and other places -- well, not</p> <p>18 merely that they should have seen it, but couldn't see</p> <p>19 it. It was hidden from them in some cases.</p> <p>20 Q. When you have talked about the normalising effects of</p> <p>21 custody, one particular theme you have brought out is</p> <p>22 something we have heard a little bit about already</p> <p>23 today, the approval of pain compliance techniques, which</p> <p>24 you say, at the very least, create a confusing message</p> <p>25 about how children should be treated. What do you think</p> <p style="text-align: center;">Page 130</p> | <p>1 you believe there is much to learn from past events</p> <p>2 about the culture and the risk that children face today.</p> <p>3 A. Yes.</p> <p>4 Q. With that in mind, have you drawn out your understanding</p> <p>5 that at Medomsley -- this is the historical example --</p> <p>6 staff felt they were encouraged to create an unpleasant</p> <p>7 experience for children?</p> <p>8 A. That's very specific. I looked at this -- when</p> <p>9 I became -- before I was asked to give evidence here,</p> <p>10 when I became aware of what happened at Medomsley,</p> <p>11 I tried to look into it, I looked at some of the media</p> <p>12 accounts at the time and found the original inspection</p> <p>13 report at the time. There is no doubt there was an</p> <p>14 explicit intention, as a deterrent, to make Medomsley an</p> <p>15 unpleasant experience, and I think often you will find</p> <p>16 that the language that people use about juvenile custody</p> <p>17 now echoes some of that.</p> <p>18 I think there is also sometimes -- what Medomsley</p> <p>19 and other events should teach us is, there aren't places</p> <p>20 that are safe. Once we take a decision to lock a child</p> <p>21 up out of safe, we put them in a dangerous situation and</p> <p>22 we shouldn't try and reassure ourselves that somehow or</p> <p>23 another this time it will be different, this type of</p> <p>24 institution will be safe and there is no risk there. We</p> <p>25 need to be alert to risks in all of these places and at</p> <p style="text-align: center;">Page 132</p> |

1 **all times.**
 2 Q. In your witness evidence you anchor that Medomsley
 3 example with the evidence you have just given about pain
 4 compliance and also this:
 5 "The informal communication between staff described
 6 at Medomsley very much echoes what was happening at
 7 Medway Secure Training Centre."
 8 **A. Yes.**
 9 Q. Is that right?
 10 **A. There is a description in the Medomsley about some of**
 11 **the events at Medomsley where staff essentially had this**
 12 **informal network that operated at a level below**
 13 **management. I think it's very striking, particularly in**
 14 **the Panorama film about Medway, how staff would go --**
 15 **I think it was for a smoke after work, that looked like**
 16 **what they were doing, where they would talk about how**
 17 **they were controlling the children and talking about**
 18 **essentially there the strongest characters establishing**
 19 **norms of behaviour by staff that were entirely separate,**
 20 **I think, to what managers sitting in their offices would**
 21 **have known was going on. So you had that subculture, if**
 22 **you like; in both places, I thought it was evident.**
 23 **I thought the evidence of what we saw in Medway from**
 24 **what I'd read about in Medomsley.**
 25 Q. You say that these informal communication networks can

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1 exclude management from knowledge:
 2 "The normalising effect may be stronger in cultures
 3 where it is seen as disloyal to the company, the
 4 institution or their colleagues to raise concerns."
 5 **A. Yes, and you saw that at Medway in the Panorama Film**
 6 **very strikingly. There's one episode where the**
 7 **reporter, who is posing as a relatively new member of**
 8 **staff, is encouraged to fake his account of an incident,**
 9 **and he's being groomed, because once -- if in real life,**
 10 **once you have done that, once you have told that maybe**
 11 **little fib, that gets one of your mates out of trouble,**
 12 **then they have got you. Then you have committed**
 13 **a disciplinary offence. If you work for a G4S place and**
 14 **that came out, you'd be sacked. So if they go down, you**
 15 **go down, and that then creates a whole -- you've been**
 16 **caught up in that culture then.**
 17 Q. You talked just briefly about the reliance on data.
 18 I think your predecessor, Dame Anne Owers, had coined
 19 the phrase "the virtual prison", and I think meant by
 20 that, according to your evidence, that the prison
 21 management described things on the basis of data rather
 22 than their real experience. Again, I think you felt
 23 that was reflected at Medway?
 24 **A. When you saw the example of the way in which they**
 25 **described an incident, the numbers involved, whether**

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1 **they broke it down, one big incident into a number of**
 2 **smaller incidents, et cetera, then distorted the**
 3 **statistics. Of course in some cases we knew right**
 4 **across the children's estate and the adults' estate that**
 5 **incidents wouldn't be reported or recorded at all.**
 6 **Sometimes that was because people were trying to hide**
 7 **things, but often it was just they were really busy,**
 8 **they didn't have time to fill in a long report or felt**
 9 **they didn't have time or they just kind of got caught up**
 10 **with something else and didn't do it.**
 11 **Certainly I have always said to inspectors -- they**
 12 **didn't need telling -- that we would want to check out**
 13 **the data we were given, the official data, for ourselves**
 14 **and try to triangulate it and verify it in other ways.**
 15 Q. Finally under this last heading, you have talked about
 16 the past experience of children concerned. We know from
 17 the research that many of them will have had
 18 a previously difficult childhood or background. You
 19 make the point that this requires great skill and
 20 experience to manage, especially if they have had
 21 previous sexual abuse in their background?
 22 **A. Yes, and you have this, as I say, and maybe you will**
 23 **come to this, very high turnover of staff. So they**
 24 **don't even really have the benefit of experience. Very**
 25 **short periods of training. Not well paid. Not high**

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1 **status roles. And expected to look after safely some of**
 2 **the most complex children in the country.**
 3 Q. It is for all those reasons I think you come back to say
 4 that independent inspection is an important safeguard
 5 because of these different factors?
 6 **A. Yes.**
 7 Q. Is that right?
 8 **A. It's one of the important safeguards. It is not enough**
 9 **on its own, it is not foolproof, but it has a crucial**
 10 **role to play.**
 11 Q. You were asked I think some questions about the proposal
 12 to review how those inspection arrangements operate.
 13 What's your understanding of what's happened in relation
 14 to that?
 15 **A. I am not 100 per cent up to date, so I have to rely on**
 16 **just what I found on the web myself. It's my**
 17 **understanding the original proposals weren't proceeded**
 18 **with, but there is now a proposal to establish secure**
 19 **schools. The proposal to establish secure schools has**
 20 **a short section on inspection and what it says there is**
 21 **that inspection will ensure that an effective service is**
 22 **being provided across "education, healthcare and**
 23 **well-being". It is noteworthy that those categories**
 24 **don't include safety and it is noteworthy that it is the**
 25 **government trying to set what the inspection standards**

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1 **are and the criteria they'll look at, not an independent**
 2 **inspectorate, all of which causes me concern.**
 3 Q. You were asked some questions about the way in which the
 4 survey is carried out, and I think you don't think that
 5 the inspectorate should ask more questions about sexual
 6 abuse in its survey; is that right?
 7 **A. No, certainly in STCs where you are dealing with**
 8 **children sometimes who aren't used to filling in long**
 9 **forms, who may have poor levels of literacy. A survey**
 10 **shouldn't be seen as providing you with an answer. It**
 11 **should be seen as providing an inspection team with**
 12 **questions they need to ask. So it points you in the**
 13 **direction of things you will want to follow up rather**
 14 **than providing comprehensive information.**
 15 Q. But when you were asked some further questions about
 16 this, I think you have clarified that the expectations
 17 which are currently used you understand are being
 18 reviewed to be perhaps more human rights focused; is
 19 that right?
 20 **A. I'm not sure -- they are being simplified as**
 21 **I understand it.**
 22 Q. Forgive me, I have misread that. Yes, to be simplified.
 23 **A. They have taken them off the website recently. I think**
 24 **the consultation period is closed, so I'm not quite sure**
 25 **what the status of that is now.**

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1 Q. We can perhaps just bring them up for reference, so --
 2 at least, bring the ones that were in place when you
 3 were the HM inspector: INQ001451, please. Just to give
 4 the panel a brief sense, these are the broad
 5 expectations against which your inspections were
 6 measured; is that right?
 7 **A. Yes. So there's a set of -- essentially, there's**
 8 **a criteria against which we inspected, and they're**
 9 **divided between expectations, which were things we**
 10 **expected to be there, and what we described as**
 11 **indicators, things that we would think ought to be there**
 12 **if the expectation was met, but it was open to the**
 13 **establishment to demonstrate they'd met that expectation**
 14 **in other ways. So we tried to -- they tried to be**
 15 **outcome focused.**
 16 Q. If we go to internal 013, please, just to give a quick
 17 overview of it, because some of these phrases we will of
 18 course see in the reports. So the four tests at the top
 19 of the page are safety, respect, purposeful activity and
 20 resettlement?
 21 **A. Yes.**
 22 Q. Then within those categories, is this right, there are
 23 certain subissues that are looked at?
 24 **A. Yes.**
 25 Q. As you say, if you go to the very bottom of this list,

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1 some are expectations and some are indicators?
 2 **A. Yes. I should just point out that these were the**
 3 **criteria we used for YOIs where we led the inspection.**
 4 Q. Yes.
 5 **A. There was a different set of criteria that were used for**
 6 **STCs which Ofsted led.**
 7 Q. We can take that down, please. You have given a certain
 8 amount of evidence about the way in which your surveys
 9 are carried out. I have asked you a few questions about
 10 that. And about the way in which questions about sexual
 11 abuse are asked on the survey.
 12 I think you have been following proceedings,
 13 Professor, and you heard my attempt yesterday to explain
 14 the very detailed work the inquiry has done on
 15 prevalence --
 16 **A. Yes.**
 17 Q. -- which I think you understand means that information
 18 has been gathered directly from different
 19 institutions -- police forces, local authorities and so
 20 on?
 21 **A. Yes.**
 22 Q. Do you want to offer a view on that?
 23 **A. Well, I haven't actually seen the work, your work.**
 24 Q. No.
 25 **A. I have just seen the transcript of the hearing**

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1 **yesterday. I think there was an implication in the**
 2 **hearing that the data from the surveys was at variance**
 3 **with the actual incidents that were being reported.**
 4 **I would want to investigate that further, because the**
 5 **surveys are asking for the perceptions of children in**
 6 **custody of what's happened to them at the time the**
 7 **inspection is taking place, and they compare the results**
 8 **of that institution with the results from other**
 9 **institutions of a similar nature, and they give, using**
 10 **that comparison, they will give a number -- the actual**
 11 **number from the other institutions that have answered**
 12 **that question.**
 13 So if you look at that closely, it would look like,
 14 in 2015, for instance, there are about 20 children
 15 across the estate -- 17 to 20 children who made
 16 allegations of abuse, looks like, to the survey
 17 responses.
 18 Now, that's just the children who were in custody at
 19 the time of that inspection.
 20 Q. On that particular day?
 21 **A. On that particular date. So over a course of a year,**
 22 **you might have three times that many children, so you'd**
 23 **have three times as many responses. Your survey,**
 24 **I think, what, your figures went from 2009 to 2017, and**
 25 **in 2009 the numbers of children in custody were three**

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1 times as much as they are today. So when you kind of
 2 divide your figures by three and multiply our figures up
 3 by three, then they're not as different as would at
 4 first appear.
 5 **But I say two things. One is, you know, I'm sure**
 6 **lots of children -- of course there were children who**
 7 **were abused who didn't want to put that on an anonymous**
 8 **survey that they weren't confident about what would**
 9 **happen to it. So I absolutely would say the surveys**
 10 **underrepresent what has happened.**
 11 **Also, I haven't actually seen your workings, so**
 12 **I would be -- it's just an observation at this stage**
 13 **that maybe people could check. I'm not a statistician.**
 14 Q. I think you heard me adduce some evidence about
 15 a particular example to do with Medway, the disparity
 16 between, I think, there being nil reports for
 17 a particular period and then around 30 allegations on
 18 our analysis. Do you have any views on that?
 19 **A. No, I'd need to look at that more carefully. As I say,**
 20 **I'm sure there are occasions. That's perhaps indeed**
 21 **where the situation is worse, where children are not**
 22 **going to fill in a survey of that kind because they're**
 23 **worried about the consequences for them if they do, or**
 24 **certain things they won't say. I'm sure that's the**
 25 **case.**

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1 Q. I'd like to ask you a few more detailed questions about
 2 that because, just to put this into context, you were
 3 HMIP at the time of the initial work done in response to
 4 the Panorama programme?
 5 **A. Yes.**
 6 Q. Can I perhaps please turn up for the panel -- perhaps we
 7 can bring this up as well -- NHK000003_004, because you
 8 summarise, helpfully, for the panel some of the recent
 9 inspection reports from YOIs and STCs as a context for
 10 what happened at Medway. In fairness, this is
 11 a statement for 2016. So when you are saying "recent",
 12 it is recent to that?
 13 **A. Yes.**
 14 Q. Scroll in, please, at paragraph 21. This quotes your
 15 annual report, I think, for 2015/16, where you say:
 16 "Perhaps some of the most troubling findings and
 17 incidents in the past year have been in relation to
 18 those places where children are detained."
 19 Pausing there, that's because your report is across
 20 the whole estate?
 21 **A. Yes.**
 22 Q. Not just children?
 23 **A. Yes.**
 24 Q. "We inspected five YOIs and two STCs with an additional
 25 unscheduled visit to a secure training centre.

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1 Section 5 should be required reading for anyone who is
 2 in any doubt as to whether the current arrangements for
 3 the detention of children are satisfactory. Four out of
 4 the five YOIs that we inspected were found to be not
 5 sufficiently good in the area of safety."
 6 **A. Yes.**
 7 Q. You have described how your inspections repeatedly found
 8 very high levels of violence between detainees and
 9 concerns about the use of force:
 10 "Some of the violence was clearly designed to
 11 humiliate the victim. In my view, this is a context in
 12 sexually abusive behaviour is probable rather than just
 13 possible."
 14 **A. Yes, I think that's right. Certainly my successor's**
 15 **report the year after this, his findings on safety in**
 16 **juvenile establishments were even worse. I have just**
 17 **glanced at their report, their new report is just out**
 18 **today. That reports some slight improvement. But over**
 19 **this period, they were very troubling places, certainly**
 20 **on my visits some of what I saw was alarming.**
 21 Q. Let's turn, please, to the Medway Secure Training
 22 Centre. Just perhaps give the panel a little bit of
 23 context for the Panorama programme. What did that
 24 reveal and what was your response to it?
 25 **A. Well, what it revealed is staff -- it was an undercover**

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1 **reporter who went in, who spent some time there, who**
 2 **spoke to me a lot about the programme beforehand. It**
 3 **revealed assaults by staff on very challenging boys, but**
 4 **they were assaulted. It showed, I think -- one of**
 5 **the very striking things it showed was the relationship**
 6 **between the boys and the staff who were mistreating**
 7 **them. One of the things that really stuck in my mind,**
 8 **where one of the boys is being hurt, he says to the**
 9 **staff member who's doing it, "Don't do it, bruv, don't**
 10 **do it, bruv", or words to that effect. It's like,**
 11 **"You're my mate. You shouldn't be doing this to me".**
 12 **You look at it and you think there's no way that boy is**
 13 **going to report what's happening to him. He's not going**
 14 **to report on his "bruv" like that. You see this attempt**
 15 **to groom the reporter, who is the new young staff**
 16 **member, to get them to collude with the falsification of**
 17 **records, and it is a very disturbing picture, and when**
 18 **we went and looked at it after the programme had come**
 19 **out, that was -- we agreed with what they'd found.**
 20 Q. We can perhaps just bring up the document that you quote
 21 later in your statement, which is, I think, the advice
 22 note from January 2016, INQ001478, please, which is
 23 a three-page note prepared by you on behalf of HMIP and
 24 Ofsted. You set out on the first page what your
 25 methodology was. This was a visit to the centre.

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| <p>1 A. Yes.</p> <p>2 Q. Then perhaps go down towards your conclusion on</p> <p>3 section 8 and thereafter, please. You said that you had</p> <p>4 significant concerns about the centre.</p> <p>5 A. Yes.</p> <p>6 Q. "It is clear from the footage that a number of staff</p> <p>7 must have been aware of unacceptable behaviour and the</p> <p>8 practice of falsifying Use of Force records, but this</p> <p>9 went unreported to senior managers or external agencies.</p> <p>10 These risks are further increased by the very high rate</p> <p>11 of staff turnover, particularly frontline residential</p> <p>12 staff.</p> <p>13 "Managerial oversight failed to protect young people</p> <p>14 from harm. Effective oversight is key to creating</p> <p>15 a positive culture ...", especially when the children</p> <p>16 were detained:</p> <p>17 "It is of note that staff carried out poor practice</p> <p>18 in areas of the centre that were not covered by CCTV, in</p> <p>19 addition to using inappropriate language that they knew</p> <p>20 would not be recorded. This was consistent with</p> <p>21 accounts ..."</p> <p>22 Then you say at 10:</p> <p>23 "Some of the concerns raised in this report are not</p> <p>24 confined to Medway or the STC model of custody.</p> <p>25 A thematic inspection into behaviour management and</p> <p style="text-align: center;">Page 145</p> | <p>1 difficult in any circumstances because sometimes you</p> <p>2 don't know for a fact what's happening and you've got to</p> <p>3 potentially get your mates and colleagues into trouble.</p> <p>4 That's a difficult ask. For me, I think it's -- what</p> <p>5 you -- I think certainly in some of the STCs and indeed</p> <p>6 in the YOIs, which are essentially disciplined services,</p> <p>7 I think there is a culture that, generally speaking, for</p> <p>8 the day-to-day way the place ran, it was "Just do as</p> <p>9 you're told. Don't argue. Do as you're told", but then</p> <p>10 they say, "In this area here, we want you to tell us if</p> <p>11 you have a concern". I don't think that worked.</p> <p>12 I think you need to have a culture across the place</p> <p>13 where staff feel, if they have concerns about anything,</p> <p>14 they can talk about it openly. After a shift, you sit</p> <p>15 down and talk about how it went and how you did and how</p> <p>16 I did, and you get used to that sense of feedback and</p> <p>17 conversation and honesty, so that when there's something</p> <p>18 terrible happening, or when you've got a big concern,</p> <p>19 it's not suddenly countercultural to raise it.</p> <p>20 I think -- I'll give you an example. It sounds</p> <p>21 perhaps like a petty example, but maybe just to give</p> <p>22 it -- I remember going to -- I forget which one it was,</p> <p>23 one of the STCs that was run by G4S. There was a woman</p> <p>24 chaplain there who was about my age and, if it doesn't</p> <p>25 sound stereotypical, was quite motherly, I thought she</p> <p style="text-align: center;">Page 147</p> |
| <p>1 restraint in 2015 outlined significant differences</p> <p>2 between policy and practice across the estate and all</p> <p>3 recommendations made should be implemented in full."</p> <p>4 You made some immediate recommendations about</p> <p>5 a commissioner to provide additional oversight to the</p> <p>6 centre: body-worn cameras should be immediately</p> <p>7 implemented; footage to be reviewed by a senior manager;</p> <p>8 all staff in regular contact with children should wear</p> <p>9 them; new inspections of STCs as soon as possible.</p> <p>10 I think, is this right, that that comes towards the</p> <p>11 end of your tenure as HMIP?</p> <p>12 A. Pretty much in the last few days. One thing that is</p> <p>13 worth bearing out from that, if I may, is this point</p> <p>14 that they weren't just the staff who were perpetrating</p> <p>15 this. It was quite clear from the programme that other</p> <p>16 staff knew and didn't report it. I think that is a key</p> <p>17 issue about how you give staff the confidence to report</p> <p>18 stuff that's going on. They were -- that was very</p> <p>19 striking, I think.</p> <p>20 Q. We will hear, and we have been told in evidence, about</p> <p>21 whistleblowing policies and so on being in place in</p> <p>22 institutions. But what do you think is the key to</p> <p>23 remedying the sort of problem that you have just</p> <p>24 identified?</p> <p>25 A. I think it is very difficult. I think it is very</p> <p style="text-align: center;">Page 146</p> | <p>1 struck me as. She was being told to wear the G4S</p> <p>2 uniform, so she had to wear the tie and the proper suit</p> <p>3 and whatever. I said, "Look, I think you have this</p> <p>4 wrong. Actually, what you ought to do is use her in</p> <p>5 a way so she's different from everyone else, that</p> <p>6 actually she is someone who isn't part of the management</p> <p>7 structure, that if you have a concern as a member of</p> <p>8 staff or a child you can talk to. But, actually, what</p> <p>9 you have done is wasted this resource in that respect by</p> <p>10 just making her be like the rest of you", and, actually,</p> <p>11 I think you need to create that sort of brand corporate</p> <p>12 loyalty, I think sends out one message, and then you</p> <p>13 can't suddenly say to them, "But actually, if you are</p> <p>14 worried about something going wrong that harms the</p> <p>15 children, you can say what you like". It doesn't fit.</p> <p>16 Q. For reference, you referred in that part of the advice</p> <p>17 to the thematic review on behaviour management and</p> <p>18 restraint of children in custody -- that's</p> <p>19 November 2015. I'll just give the reference to that.</p> <p>20 It's INQ001441. But I don't think we need to turn that</p> <p>21 up.</p> <p>22 Could I go back, please, to your statement where you</p> <p>23 do bring together some of the next steps in relation to</p> <p>24 Medway, NHK000003_005, please, where you explain that</p> <p>25 the Medway Improvement Board did then carry out more</p> <p style="text-align: center;">Page 148</p> |

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| <p>1 in-depth work and found similar things to what you had 2 found. You say at paragraph 24, please, if we can 3 scroll in there: 4 "Poorly trained staff with rapid turnover. 5 "A focus on contract delivery at the expense of 6 the welfare of the boys. 7 "The normalisation of poor behaviour ... 8 "The capture by the establishment of advocates who 9 should have been independent. 10 "Ineffective whistleblowing arrangements." 11 You make the point that the report also had noted 12 that the inspection reports had become more critical 13 since the HMIP had become involved in the inspections in 14 2012? 15 A. Yes. 16 Q. And noted some issues around the assessment processes 17 between STCs and YOIs that under the Ofsted arrangements 18 an overall effectiveness good rating could be given even 19 when important safety measures were not robust? 20 A. That was a concern of the improvement board, yes. 21 Q. We talked quite a bit about Medway. Before I leave 22 that, just for completeness, the INQ001481, please, if 23 I can bring that up very quickly. That is the Ofsted 24 report on Medway from September 2014. I don't know if 25 you know when the filming took place at Medway for the</p> <p style="text-align: center;">Page 149</p> | <p>1 A. Yes. This was before the Medway report. It illustrates 2 lots of the issues. I didn't actually go on that 3 inspection, and my recollection now is that an inspector 4 had been there, raised concerns with me about what we 5 had found, which was some very -- some appalling 6 incidents -- 7 Q. Pull up, please, NHK000003_006, which is where you 8 summarise the findings of the February 2015 report, 9 paragraph 27. 10 A. The provisional grading that had been given to the 11 establishment was that overall it was adequate, and we 12 reviewed the evidence and we said, look, we didn't -- 13 I felt I didn't agree with that. I raised it with 14 Ofsted. I think we needed -- said we needed to change 15 it, which they did, so they then downgraded it to 16 inadequate. Then what happened is, there was another 17 review instituted at the place, I think by G4S 18 themselves, led or conducted by Martin Narey, who had 19 been the head of the Prison Service, who I think went, 20 accompanied by Michael Gove, who was the Justice 21 Secretary at that time, and they issued a report that 22 disputed our conclusion. But we stuck to our guns. 23 I think what we found -- I think events subsequently 24 showed -- I think what we found at Rainsbrook was at 25 that point becoming typical of the system and I think,</p> <p style="text-align: center;">Page 151</p> |
| <p>1 Panorama programme. 2015? 2 A. Late 2015. 3 Q. This report is September 2014. But one can see that if 4 you look on page 4, please, the overall effectiveness 5 was judged as good with outstanding features? 6 A. Yes. 7 Q. Is that perhaps an example of some concerns about 8 something being categorised as good where safety might 9 not have been good? 10 A. I've thought a lot about that since. I don't know the 11 answer. Possibly you're right. I mean, I talked to the 12 inspector who led the inspection about that. 13 We thought at that time that Medway was one of 14 the better STCs. In that period of a year, there's 15 50 per cent staff turnover and some critical management 16 appointments. So I suspect it was a mixture of both 17 those things: it wasn't as good as we thought it was, 18 but it deteriorated substantially in that year period. 19 Q. I would like to turn now to some questions about 20 Rainsbrook STC because that is dealt with at 21 paragraph 27, please, of your first statement. Because 22 again, is this right, that STC had some very critical 23 reports about it? 24 A. Yes. 25 Q. At a similar time?</p> <p style="text-align: center;">Page 150</p> | <p>1 if more attention had been given to what we found at 2 Rainsbrook, that might have alerted concerns -- people 3 to be concerned about Medway earlier. 4 Q. For completeness, paragraph 28, please, of the same 5 statement. You have noted there that there were several 6 incidents that you have described. One incident, CCTV 7 showed a member of staff restraining a boy from behind 8 appearing to mimic a sexual act. In another incident, 9 staff appeared to collude with a debt being settled by 10 one boy defecating on another boy's head: 11 "Most of these had been identified by the centre's 12 management and disciplinary action was taken, but 13 inspectors were concerned that overall the centre's 14 response to these incidents and the culture they 15 revealed was inadequate." 16 A. They were the two worst incidents, but there were 17 others. 18 Q. For completeness, to adduce it, please, the Ofsted 19 report itself in conjunction with the HMIP and CQC, 20 Rainsbrook, February 2015, INQ001568, and if we can pull 21 up, please, internal page 4, we will see the overall 22 effectiveness of Rainsbrook STC to meet the needs of 23 young people is judged as inadequate. 24 Can I ask you, please, while we are dealing with 25 this area, to turn briefly to the report from Feltham at</p> <p style="text-align: center;">Page 152</p> |

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| <p>1 around a similar time. That's INQ001456. That's the 2 summer of 2015. So it is again still when you were 3 HMIP. 4 A. Yes. 5 Q. This is an HMIP-only report because it is the YOI? 6 A. In that case, Ofsted accompanied us and they looked at 7 the education particularly and training. 8 Q. If we go to the second page, we can see that Ofsted and 9 the CQC are named on the second page. But the measures 10 here are different, aren't they? 11 A. Yes. It's our report. 12 Q. We can see if you go, please, to internal page 5, 13 there's an overall narrative which I think you have 14 written? 15 A. Yes. 16 Q. That deals with a couple of -- over a couple of pages. 17 Scroll in, please, on the second paragraph: 18 "The number of violent incidents remained very high 19 although it had reduced since the last inspection. 20 There had been 209 violent incidents in the six months 21 before this inspection, compared with 262 in a similar 22 period at the last inspection. ... A small number of 23 boys were too frightened to leave their cells ..." 24 Next paragraph down: 25 "Levels of ... force were also high but had</p> <p style="text-align: center;">Page 153</p> | <p>1 the box at the top, please, were not sufficiently good 2 against the safety test? 3 A. No, they weren't. Dangerous. 4 Q. Just taking this, if I may, relatively shortly, the 5 final report, please, in this group is the Werrington 6 report from October 2015 -- again, please, it is 7 INQ001458. Again, if we scroll down to internal page 5, 8 we see a rather similar narrative from you where you say 9 that there are issues, you can see in the third 10 paragraph, for example: 11 "Management of poor behaviour was a significant 12 weakness ..." 13 A. Yes. 14 Q. Scroll down. But the senior management team, in the 15 final paragraph, were newly formed, were beginning to 16 find their feet. Then go to the very last paragraph, 17 please, of the next page: 18 "While we were greatly concerned about the 19 deficiencies in the management of safety at Werrington, 20 we found managers and staff to be receptive to our 21 findings and were confident that they would make 22 concerted efforts to make the establishment safer." 23 That's the overall position that you reached? 24 A. Yes. 25 Q. Again, just for completeness, internal page 13, please,</p> <p style="text-align: center;">Page 155</p> |
| <p>1 reduced..." 2 Levels of the use of force by staff, I think? 3 A. Yes. 4 Q. The next paragraph: 5 "It was impressive that managers were responding to 6 these huge challenges in a positive and thoughtful way." 7 So you made some positive observations. 8 A. Yes. 9 Q. But I think your conclusions, please, at the end of 10 the next page were: 11 "Feltham A has a long way to go and at present there 12 are very serious concerns about the safety of the boys 13 held there. However, it is making real progress ..." 14 So there were still safety concerns by that point? 15 A. Absolutely. I mean, I think we try to make 16 a distinction between staff struggling to deal with 17 these very challenging boys in these very difficult 18 circumstances. It was slowly moving in the right 19 direction, and in that report that you quote I gave an 20 example of one member of staff acting very courageously 21 to protect one of the boys that was held there. But it 22 was still very dangerous stuff. If your own child was 23 there, you'd be terrified. 24 Q. Go down to internal page 13. The overall safety 25 indicator or expectation, the outcomes for children, in</p> <p style="text-align: center;">Page 154</p> | <p>1 "Outcomes on the safety test": 2 "The outcomes for children and young people were not 3 sufficiently good against the safety test." 4 A. Yes. 5 Q. We can take that down, please. Just go briefly, if 6 I may, through some other points in your statement, 7 please. Can I go back to NHK000003_007. Scroll in on 8 paragraph 34, where you give some examples from the 9 report on management and restraint of children 10 experiencing restraint and saying how much they found 11 restraint hurting them and difficult. 12 A. Yes. 13 Q. I think I will come at the end of the evidence, if that 14 is all right, to deal with your suggestions around 15 reform. Can I pick up some themes from your second 16 statement, please. That's the statement that's at 1757. 17 You were asked some questions about the size of 18 establishments and about the different types of 19 establishments, so YOIs, the STCs and SCHs and about 20 public v private. Can you give a view on those 21 comparisons? 22 A. I would say for all of it there are -- the main point 23 I wanted to make is, whether it is private or public, 24 whether it is big or small, children held in these 25 places who are locked up are at risk by the nature of</p> <p style="text-align: center;">Page 156</p> |

1 the closed establishment. So don't think it is the sort
 2 of establishment you could create where you are locking
 3 them up where it would be safe.
 4 There are other reasons for having -- you know,
 5 I think often smaller establishments closer to home will
 6 get better outcomes in lots of other respects. I think
 7 ethical arguments about whether these sorts of places
 8 should be in the private or the public sector. But
 9 don't think there is some model you can devise that
 10 gives you a guarantee of safety because there isn't.
 11 Q. You have given some granular evidence that the panel can
 12 read about CCTV and body-worn cameras and so on and
 13 about whether children should share cells or not. They
 14 can perhaps read that. Can you deal, please, with the
 15 questions you were asked about resourcing and what your
 16 view is on that?
 17 A. It is linked with staff turnover as well if I can take
 18 the two together.
 19 Q. Please do.
 20 A. I certainly looked at to the data that's published
 21 online. So I looked at the data from these places,
 22 juvenile establishments, and I'm not talking about
 23 secure children's homes here, which I don't have
 24 knowledge of, but YOIs and STCs are now in the
 25 Prison Service in the youth custody estate. There is

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1 some historical data published about the budget and
 2 there is some historical data published elsewhere about
 3 the numbers. Essentially, the way in which the budget
 4 has fallen has pretty much matched the way in which the
 5 numbers have fallen. Slightly less.
 6 If you look at actual staff numbers, they have
 7 fallen by slightly less than the numbers of young
 8 people.
 9 So you kind of make a sort of very crude comparison.
 10 But what's happened in that period, although in a sense
 11 resources have remained reasonably consistent on
 12 a pro rata basis, I think the challenges of the boys
 13 they are dealing with have got greater. I think because
 14 the resources have been concentrated on a smaller number
 15 of establishments that's created additional challenges
 16 in itself. What has happened is that the staff turnover
 17 rate, and therefore not just the inexperience but the
 18 vacancies that arise because of staff turnover, not
 19 because the budget is inadequate but simply you haven't
 20 got the staff in to fill the places that you would be
 21 allowed to do, those have led to shortages and a lack of
 22 experience in particular and I think that's had a very
 23 direct effect on the safety of these places.
 24 Q. You particularly quote turnover statistics to the effect
 25 that the HMPPS workforce leaving rate increased from

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1 2.8 per cent in 2009 to 11.2 per cent in 2017/18 for the
 2 middle, the band 3-5 officers?
 3 A. These are the operational staff. The operational staff
 4 had that huge loss. If you looked at the numbers of
 5 staff who were dismissed, the proportion of those who
 6 were dismissed went up from 6 to 12 per cent, which is
 7 another, I think, indication of -- I think it is much
 8 about inexperience -- they might not have been dismissed
 9 because of misconduct, there might have been
 10 incompetence or other reasons. Essentially, they
 11 recruited people who weren't fit for the job and that's
 12 another worry.
 13 Q. You were asked questions about the divergence in
 14 diversity between staff and the children and I think
 15 just to summarise your evidence at the end of
 16 paragraph 5 you said that it is likely that disparities
 17 between the racial diversity of staff and children are
 18 likely to undermine the trust in that relationship. Is
 19 that right?
 20 A. I think there is something around -- from the
 21 Lammy Report I think I quoted, that that goes to -- lack
 22 of diversity goes to trust and trust is critical in
 23 these sorts of institutions.
 24 Q. You have expressed, I think, concerns before about the
 25 complaints system being inadequate; is that right?

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1 A. Yes. Yes. That's because I think children aren't
 2 believed and children, as you have heard from other
 3 witnesses, don't trust the system.
 4 Q. You have made the point that your own inspectorate
 5 identified I think that 96 per cent of children knew how
 6 to make a complaint, but there seemed to be a reluctance
 7 by children to actually make a complaint. They knew
 8 they could do it but they were not wanting to do it
 9 because you say 49 per cent of children in YOIs said it
 10 was easy to make a complaint, 26 said they had been
 11 dealt with fairly, but 10 per cent said they were too
 12 scared or intimidated to make a complaint in the YOIs
 13 and 13 per cent in the STCs said they'd not made
 14 a complaint because they were worried about the
 15 consequences?
 16 A. That's what children told us in the surveys.
 17 Q. Can I turn now, please, if I may, to proposals for
 18 reform. Can I ask you to look, please, first of all, at
 19 the list of proposals that you have been provided with
 20 I think that were made by Mr Lomas in his statement,
 21 although I think the note refers to Mr Clarke, it is
 22 actually Mr Lomas's statement.
 23 We can perhaps bring it up, HIP000017_004. This was
 24 where the Deputy Chief Inspector of Prisons who followed
 25 you, I think, was asked for proposals for reform.

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| <p>1 Paragraphs 19 to 26, there are several different 2 suggestions that are made there. To what extent, 3 Professor, do you agree with those, think they remain 4 valid or disagree? 5 A. It is not up on the screen. 6 Q. Sorry, I think we can bring it up. 7 A. I have got it. 8 Q. Internal page 4, please. 9 A. I have it. I think I agreed with all of those, I think, 10 pretty much. They absolutely reflect the views I would 11 have had if I had still been at the inspectorate. 12 Q. Thank you. Can I ask you then to look at the Howe & Co 13 list, please, INQ001751 -- 14 A. Yes. 15 Q. -- which I think you have hopefully had time to reflect 16 a little bit on? 17 A. I have. 18 Q. Are there any of the proposals made by the complainant 19 CP group that you would like to alight on or comment on? 20 A. There are one or two that I would like to comment on, 21 particularly where they bring up points that haven't 22 been dealt with elsewhere. Generally speaking, I think 23 this is a helpful list, I wasn't quite sure that 24 I understood some of them. But generally I thought it 25 was a helpful list.</p> <p style="text-align: center;">Page 161</p> | <p>1 at the most serious level. 2 I thought their idea about peer supporters was 3 interesting and you could pilot that. 4 I also wanted just to draw your attention to point 5 (xii) in their note where they talk about -- 6 particularly the overrepresentation of Traveller, Gypsy 7 and Roma communities. I think that's a very important 8 point. If you looked at what we were finding at Medway, 9 for instance, I think in one of our reports we found 10 25 per cent of the boys there were from these 11 communities. That's a massive -- absolutely massive 12 overrepresentation. 13 I remember discussing it with the Youth 14 Justice Board who simply didn't believe it. They 15 thought the boys had misunderstood the question. 16 I don't think that is the case. I think there is 17 a massive overrepresentation. We have done some work on 18 that in the inspectorate but I think more needs to be 19 understood about that. Whether these boys -- because 20 often they will have particular problems with literacy, 21 particular problems around the stigmatisation of their 22 community, whether in terms of sexual abuse this is 23 a particularly vulnerable group of boys. I think that's 24 a point that's well made. 25 But generally, I thought it was a helpful list, all</p> <p style="text-align: center;">Page 163</p> |
| <p>1 I think in the first point (i), I think getting some 2 kind of statutory agency with responsibility for 3 producing data on this would be helpful. I can see an 4 advantage in that. 5 I think I was interested in their suggestion about 6 getting people to swear an oath. I think the point 7 isn't necessarily about the oath, but it is about 8 a professionalisation of people who work in these 9 establishments. I was struck a bit by the echo of what 10 was said in the Charlie Taylor's report about moving 11 away from uniformed, disciplined staff to a different 12 kind of staff grouping. So I think, if what was behind 13 this idea is the idea of creating a professional group 14 of staff within a sense like other professionals, with 15 obligations to their profession that go beyond, in 16 a sense, obligations to their employer, I think there 17 would be some value in that. 18 On point (viii), I think this point about access for 19 advocacy workers and others, I think that's important. 20 That's also important for the inspectorate and one of 21 the things I would just add to that, I think certainly 22 in the case of the inspectorate, if people attempt to 23 intimidate or introduce sanctions to somebody who has 24 cooperated with the inspectorate, I think that should be 25 a criminal offence. I think that should be dealt with</p> <p style="text-align: center;">Page 162</p> | <p>1 of which deserves further consideration. 2 Q. I am asked to give you another one to think about, if 3 that is all right: does Professor Hardwick think that 4 child detainees should be placed under the 5 responsibility of a new ministry for children? 6 A. I don't know about the new ministry. I don't think they 7 should be under the responsibility of 8 the Ministry of Justice. I think they should be -- it 9 would be education or health or somewhere else. I would 10 take them away from the Ministry of Justice. 11 Q. Can I bring up your own statement, finally, 12 NHK000005_012. You were asked I think some broad 13 questions yourself. You have said in answer to 14 a question answered at 56: 15 "Overall, the systems and procedures in place are 16 appropriate -- but they are only effective if they are 17 consistently and properly implemented." 18 You made your point there about developing new -- 19 existing systems and procedures rather than developing 20 new ones, apart from the issue of pain compliance that 21 you have drawn a fairly bright line around? 22 A. There may well be some procedural improvements you can 23 make. The point isn't that we don't have a raft of 24 procedural measures. The point is they are not 25 consistently and openly implemented.</p> <p style="text-align: center;">Page 164</p> |

1 Q. You have stressed at 57, again, why independent
 2 inspection remains significant. At 58:
 3 "Have institutions failed to protect children from
 4 abuse?"
 5 There is clear evidence, you say in the middle of
 6 that paragraph, that some institutions have recently
 7 failed to protect children from physical abuse, some of
 8 which was humiliating with sexual connotations:
 9 "I therefore believe this indicates a likelihood
 10 that some children, as they allege, might also be at
 11 risk of sexual abuse."
 12 **A. Yes.**
 13 Q. That remains your view?
 14 **A. Yes.**
 15 Q. By way of conclusion at 59, I think you say it is
 16 important that the risk is openly acknowledged. It is
 17 not just a historical problem. Do you want to just
 18 develop what you say at 59, please, Professor?
 19 **A. First of all, I make that point. It would be a big**
 20 **mistake to see this either as a historical problem --**
 21 **I think we quite often think, well, we fixed it. You**
 22 **know, we fixed it after Medomsley, we fixed it after**
 23 **Medway. It is not fixed. We know just from the survey**
 24 **results it will be happening now as we speak to some**
 25 **children in some institutions. I think there is a real**

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1 **danger of complacency. I think you need a range of**
 2 **different types of responses, so I don't think --**
 3 **I think of course good procedures are important, I think**
 4 **advocates can help. But I also think a good, effective**
 5 **and independent inspection system should -- is**
 6 **important, and personally I have indicated here I would**
 7 **like to see the provisions from the Optional Protocol to**
 8 **the Convention against Torture put into law so that the**
 9 **inspectors who look at this issue now wouldn't merely**
 10 **have the rights that go with that role but they would**
 11 **also have the responsibilities. I think that would give**
 12 **a responsibility to the different inspectorates who are**
 13 **part of the mechanism by which we deal with OPCAT to**
 14 **work together perhaps more effectively than happens at**
 15 **the moment to ensure that children are properly**
 16 **protected.**
 17 **I think what's important about that international**
 18 **instrument is it puts the protection of children rightly**
 19 **at the top of the list. Of course their education is**
 20 **important, of course their resettlement is important.**
 21 **But you can keep children safe, frankly, even if the**
 22 **education is poor. You can't offer good education to**
 23 **children who are not safe. The bedrock for this has to**
 24 **be safety and protection of children from abuse.**
 25 **I think putting the provisions of OPCAT into law would**

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1 **be one of the ways in which that protection could be**
 2 **strengthened.**
 3 Q. Finally, please, your most recent statement,
 4 INQ001757_006. You were asked some questions about the
 5 Taylor Review. We don't need to bring it up but I can
 6 benchmark it: INQ001422 is the report of Charlie Taylor,
 7 December 2016. I think you say in your statement here
 8 at paragraph 10, if you scroll in, please, that there is
 9 much to welcome in his report?
 10 **A. Yes.**
 11 Q. But I think you come back to saying perhaps what you say
 12 there, that there is a need to remember that if we
 13 continue to lock children up, they will continue to be
 14 at risk?
 15 **A. I think don't be fooled by the language. It's --**
 16 **sometimes I think we call things "approved schools" or**
 17 **"secure training centres" or "secure schools". We**
 18 **should recall we are locking children up and we are**
 19 **locking their doors at night, they haven't got a handle**
 20 **on the inside and they can be restrained. I think if**
 21 **you use language that minimises or softens the**
 22 **experience of what's happening to these children, that**
 23 **encourages complacency. I think you need a range of**
 24 **expertise to properly inspect these places and my view**
 25 **remains that the Inspectorate of Prisons has a crucial**

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1 **role to play in future of keeping these children safe.**
 2 Q. I think you welcome the current chief inspector's
 3 establishment of the urgent notification system --
 4 **A. That's a very good system. Well done.**
 5 Q. -- which I think has been used at least once already?
 6 **A. Yes, it has been used.**
 7 Q. We will hear more about that next week. Under "OPCAT"
 8 you say at 8, if we go back up that page:
 9 "A truly independent body would then have to be
 10 established. As chief inspector, I always criticise the
 11 use of pain compliance. My concern is if HMIP was
 12 a regulator, it would have to regulate the
 13 implementation of the government's policies rather than
 14 basing its judgments on international standards and,
 15 where necessary, criticising the policies of
 16 government."
 17 So it is not clear that a regulatory role is what
 18 you are suggesting?
 19 **A. It would be very tempting if there was a requirement**
 20 **for -- in a sense, the inspectorate's recommendations**
 21 **had legal force. But essentially then what you would be**
 22 **doing is making the inspectorate another layer of**
 23 **management in a national system, and I think it would**
 24 **have to be regulating the government's policies. You**
 25 **couldn't have a system where an unelected quango**

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1 essentially is deciding what should happen in
 2 contradiction to what an elected politician wants.
 3 So I think the examples I gave, so pain compliance,
 4 if the government said it was okay, in the end they are
 5 elected, I wasn't, they have to decide. There is a real
 6 danger that if you turn the inspectorate into
 7 a regulator, it will lose its independence and lose its
 8 ability to criticise sometimes the national politicians
 9 or national heads of institutions that are responsible
 10 for the failings that we have identified. In a sense,
 11 it would just become part of the system rather than
 12 separate from it.

13 Q. Is there anything else, Professor, that you think I have
 14 missed from going through your statements? I hope
 15 I have tried to pull out the key themes. Is there
 16 anything else you wish to say?

17 A. No, you have been very thorough. Thank you.

18 MS HILL: Chair?

19 Questions by THE PANEL

20 THE CHAIR: Can I begin by asking you whether you think the
 21 quality of leadership and management in the institutions
 22 we have been discussing is good enough? Are they up to
 23 the task of changing culture and attitudes, establishing
 24 trusted whistleblowing systems, engaging respectfully
 25 with children and ensuring their safety?

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1 A. I think -- first of all, I do think there were some
 2 exceptional people working in the system who were
 3 capable of doing it and in some cases were battling
 4 against the system to try to deliver. I think the
 5 example of the report in Feltham that was referred to
 6 earlier, I thought the managers there were impressive
 7 but facing very huge challenges.

8 I think at a national level, I don't think the -- as
 9 I say, I don't think the Prison Service or the
 10 Ministry of Justice is the right place to locate these
 11 services that are about looking after children. There
 12 is not an institutional culture and experience that is
 13 appropriate for the task.

14 The other problem is about the turnover of managers,
 15 the fact they never stay. If you were sending your
 16 child to a school where the head of the school was
 17 changing every 18 months, you would be worried about the
 18 quality of your child's education. I guess the turnover
 19 of the governors of some of these places and directors
 20 would be about 18 months to two years. Even
 21 if potentially they are up to the job, they are never
 22 given a chance to stick at it for long enough to get the
 23 experience they need.

24 MS SHARPLING: Thank you, Professor Hardwick, just a couple
 25 of questions for me. Just for clarification purposes,

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1 could you describe the status of the inspectorate's
 2 recommendations?

3 A. Our recommendations? So it's up to -- it might be
 4 directed to the governor or a director of an
 5 establishment or in some cases to ministers or the head
 6 of a Prison Service, but they have to -- what now has to
 7 happen, by agreement, rather than by law, is, they have
 8 to publish a response which is put on the inspectorate's
 9 website, and the inspectorate now can issue what it
 10 calls an urgent notification that goes to the
 11 Secretary of State and the Secretary of State has to
 12 publish his or her response. But, once again, you know,
 13 they can choose whether to do it or not, but they have
 14 to enter into discussion about it, and I think that's
 15 a -- the new system that's been introduced is a very
 16 good idea and I welcome it.

17 MS SHARPLING: On a particular matter that was discussed
 18 when you were giving evidence, in Rainsbrook, did you
 19 make recommendations in 2014 on Rainsbrook when you
 20 issued a critical report?

21 A. Yes, we did, yes, we would have made recommendations
 22 that are in the report, yes.

23 MS SHARPLING: My next question is, when G4S commissioned
 24 their own report after you had published yours, did that
 25 in any way delay or defer any improvement activity as

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1 far as you know?

2 A. Well, I certainly think it had the effect of reducing
 3 the credibility of what we were saying. So it accepted
 4 that there had been some incidents, but did not accept
 5 that this was a reflection on the establishment as
 6 a whole, and I think that was a serious error. I think
 7 we were right.

8 MS SHARPLING: Has that ever happened, in your experience,
 9 before, when an organisation has commissioned their own
 10 report after you have gone in and prepared yours?

11 A. Not that I'm aware of in that particular -- in that way.
 12 I mean, sometimes what we said was disputed, and it was
 13 disputed sometimes by ministers, but, you know, you need
 14 to have robust discussions sometimes.

15 MS SHARPLING: Do you know why it happened on that occasion?

16 A. I don't know why they chose to do it on this occasion.
 17 Well, I think what was the case, linked to this -- you
 18 will notice from the Medway Improvement Board report
 19 that they have noted that the inspections of STCs became
 20 more rigorous once HMIP became involved. I think that's
 21 the case. What happened is that the gradings that were
 22 given to STCs went down, and STCs and the management of
 23 them didn't like that, I don't think.

24 MS SHARPLING: Thank you.

25 MS HILL: Just to assist, Ms Sharpling, perhaps we can

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| <p>1 briefly bring up INQ001481. I took the professor very 2 quickly through these, but you can see that is 3 the September 2014 Medway report and after the judging 4 of it there are then a series of recommendations to be 5 done immediately -- within three months, within six 6 months. 7 MS SHARPLING: Yes, I appreciate that. 8 MS HILL: We have got the documentation. 9 THE CHAIR: Thank you, Professor Hardwick. That is all. 10 A. Thank you. 11 (The witness withdrew) 12 MS HILL: Thank you very much. Chair, we had proposed to 13 read some evidence from Steve Gillan. I will just take 14 a couple of minutes to adduce that, if you don't mind. 15 This is evidence from the Prison Officers' Association. 16 For completeness, it is POA000001 is his first statement 17 and POA000003 is his second statement. 18 He -- Steve Gillan -- has given evidence about the 19 matters that limit time that staff have to spend with 20 children, talking about staffing pressures and things of 21 that nature. 22 He has talked about recruitment and retention 23 problems that are well documented, including in response 24 to austerity measures. 25 He's talked about difficulties with training,</p> <p style="text-align: center;">Page 173</p> | <p>1 outcomes." 2 He's asked some more detailed points about sharing 3 of rooms, staff working alone, and so on and says this 4 in answer to question 3: 5 "The budget cuts and reduction in staffing across 6 the prison estate have had a serious impact on safety in 7 all workplaces. This is demonstrated by the data 8 provided showing a sharp increase in allegations." 9 He's asked some other questions which you can 10 perhaps read. He's asked to comment on the prevalence 11 analysis, which he does briefly. 12 He has then, or we have then, asked you to adduce 13 just briefly three different press releases from the 14 POA: INQ001555, 28 July 2016, the headline is "Latest 15 safety in custody statistics outline devastating levels 16 of violence in our prisons", and the quote from the 17 chair of the POA in that article refers to chronic 18 staffing levels, staff shortfalls, overcrowded prisons 19 and impoverished regimes: 20 "We cannot continue to allow the government and the 21 employer (NOMS) to allow these unprecedented levels of 22 violence to continue." 23 There are similar articles or reports: INQ001554, 24 that's from August 2016, with a quote there that the 25 headline is, "Government's austerity measures have left</p> <p style="text-align: center;">Page 175</p> |
| <p>1 questions remain about whether training is adequate, as 2 it forms only part of a process: 3 "I believe that training should stand alone. 4 There should be regular training updates with greater 5 confidence to deal with the many complex issues faced on 6 a daily basis. Many would argue that supervision and 7 support for staff is superficial and lacking any real 8 depth." 9 Perhaps ask you to read the first statement in full, 10 but his second statement deals with some more granular 11 points. He's asked about the difference between the 12 different types of institution, and he says: 13 "As a trade union, we believe the government should 14 be responsible for all custodial care and the private 15 sector should be excluded from providing custodial care. 16 Despite our view, private companies do operate in this 17 setting and the provision and standard of care should 18 reach a minimum standard required no matter who it is 19 provided by. The size of the establishment is not as 20 important as the unit size where children are housed and 21 supervised within the establishment, which is the key 22 element to security and safety. The use of technology 23 and reduction of staff-to-child ratios will also 24 minimise the risk of abuse. We widely acknowledge that 25 it's widely accepted that smaller units produce better</p> <p style="text-align: center;">Page 174</p> | <p>1 our prisons in meltdown". 2 Then finally from February of this year INQ001556: 3 "The Ministry of Justice are massaging prison 4 officer recruitment figures, which gives a massively 5 false impression of successful recruitment into 6 a Prison Service that has been decimated by budget cuts 7 over a number of years and remains in crisis." 8 Some figures are given by Mr Gillan in response to 9 that and it's under the headline that figures on prison 10 officer recruitment is misleading the general public. 11 Those are MoJ figures. Perhaps you can read those 12 articles which are in your bundle. 13 Chair, that concludes the evidence for today. 14 THE CHAIR: Thank you very much, Ms Hill. We will reconvene 15 tomorrow. 16 (4.07 pm) 17 (The hearing was adjourned to 18 Thursday, 12 July 2018 at 10.30 am) 19 I N D E X 20 21 Welcome and opening remarks by THE1 22 CHAIR 23 24 DR LAURA JANES (affirmed)1 25</p> <p style="text-align: center;">Page 176</p> |

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