

<p>1 Friday, 8 February 2019 2 (9.30 am) 3 Housekeeping 4 THE CHAIR: Good morning, everyone. Ms Karmy-Jones? 5 MS KARMY-JONES: Chair, there are two brief updates to 6 provide this morning. Firstly, in relation to the 7 request to the Apostolic Nuncio, we have considered the 8 document that Ms Gallafent referred to at the conclusion 9 of yesterday's hearing and which was provided to the 10 inquiry shortly before she raised it in the hearing and 11 whilst I was on my feet. It is, in essence, an 12 acknowledgement of a letter that was sent to the Nuncio 13 last week and indicates that he is still waiting for 14 permission from his superiors, by which we take it to 15 mean that he means the Holy See. 16 We are grateful for it, however, but it does not 17 move matters forward substantially. 18 Secondly, some clarification around the timetable 19 today. We expect to conclude Mr Cleugh's evidence in 20 the next half an hour. Ms Russell's evidence will then 21 be concluded by 11.00 am. We will then have a short 22 break before hearing from Dom Christopher Jamison. 23 I know that you have read Mr Andrew Johnson's 24 statement, and you do not consider it necessary for him 25 to give evidence in person. We are, of course, grateful</p> <p style="text-align: center;">Page 1</p>	<p>1 to him for providing his statement. It provides an 2 update on the current position of the school. It will 3 be adduced in evidence by being published on the 4 inquiry's website in full. 5 We will, therefore, conclude the evidence by 6 approximately midday. Core participants will then be 7 invited to make a short closing statement of 10 minutes. 8 I remind core participants that we must conclude the 9 hearing by 4.00 pm today. Therefore, to ensure that 10 every core participant that wishes to make a closing has 11 a proper opportunity to do so, it will be necessary to 12 enforce the 10-minute time limit and, to assist all 13 parties to keep to that time, our team will hand 14 everyone a note at approximately the eight-minute point. 15 We do that to help and not to hinder. 16 As I indicated in my opening earlier this week, core 17 participants may provide an additional written closing 18 statement by 22 February of this year. Therefore, in 19 our submission, no further time is going to be required. 20 If we can move back, then, to Mr Cleugh. 21 MR CHRISTOPHER JOSEPH CLEUGH (continued) 22 Examination by MS KARMY-JONES (continued) 23 MS KARMY-JONES: Mr Cleugh, having considered your evidence 24 overnight, I have reduced the number of questions that 25 remain to be asked of you substantially. I'd really</p> <p style="text-align: center;">Page 2</p>
<p>1 like to look at just a few documents with you, starting 2 with a letter that you wrote to parents in August 2010. 3 It is ISI001130. Thank you very much. Can we look up 4 a little on the page. 5 A. Yes. Of course, this was not the final letter that went 6 out -- 7 Q. I have not asked my question. 8 A. Sorry, but I'm just saying that's not the letter. 9 Q. Well, this is the letter that the ISI have provided us. 10 A. Okay. Yes, okay. 11 Q. Can you hold until I ask the question? 12 A. Sorry. My apologies. 13 Q. In the letter that the ISI have on their file as 14 a draft, it says, in the second paragraph down: 15 "Dear Parents ... 16 "Father Abbot and I were advised by the ISI not to 17 inform parents of this inspection until the report was 18 published." 19 All right? 20 A. Yes. 21 Q. At paragraph 1, below: 22 "It is important to highlight two points: 23 "1. At the time of the full inspection 24 in November 2009, we were deemed to be fully compliant 25 with statutory requirements."</p> <p style="text-align: center;">Page 3</p>	<p>1 In the second paragraph down: 2 "Subsequently, we have implemented the suggestions 3 and having been advised by ISI that our policy is now an 4 exemplar of excellence." 5 Yes? 6 A. Yes. 7 Q. Can we turn to the next page. Then can we turn to 8 ISI00113301. The notes in hand. Are those the notes of 9 the ISI who received the draft? 10 A. I assume they are, yes. 11 Q. So the next document is ISI001133_001. 12 A. Yes, I see that. 13 Q. On 25 August 2010, in response to this draft, Mr Durell 14 wrote to you saying: 15 "Further to the email below and our conversation 16 this afternoon, you asked me to send an email including 17 the points I had made about our concerns relating to the 18 draft letter." 19 A. Yes. 20 Q. They were, number 1: 21 "Factual accuracy. 22 "I did not tell you not to inform parents about the 23 visit (not that I am saying you should have done)." 24 The third point down: 25 "We have not advised that the policy is an exemplar</p> <p style="text-align: center;">Page 4</p>

1 of excellence, although we have stated that it should
 2 become exemplary and we are happy to help bring it to
 3 that standard using our report and the letter from DfE."
 4 Under the paragraph numbered 2, "Potentially
 5 misleading points":
 6 "The school was deemed compliant in November 2009 --
 7 but this was because circumstances were not fully known
 8 and some matters were not divulged."
 9 So your initial letter, in draft, had misrepresented
 10 your conversation with the ISI to some extent, hadn't
 11 it?
 12 **A. Well, that was the reason it was sent to ISI in the**
 13 **first place, because they had asked -- I was under no**
 14 **obligation to send them a letter in advance, but**
 15 **I agreed that I would do so. What I would --**
 16 Q. How did you get it so wrong?
 17 **A. I don't believe I did get it wrong. For instance, that**
 18 **first point -- the author of that email is**
 19 **Durell Barnes. I did not say that Durell had told them.**
 20 **I actually was told by the lead inspector,**
 21 **Richard Shannon, the abbot and I together, at the**
 22 **feedback -- and we weren't the only two there -- that we**
 23 **shouldn't say anything until the report had actually**
 24 **come out.**
 25 Q. Did you go back to him and say, "I'm sorry, that was

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1 **the inference that, having taken the lead inspector's**
 2 **advice and put them into the policy, that we believed it**
 3 **was. Now, clearly I was wrong, all right, but I was**
 4 **working off that, and -- I was working off that letter**
 5 **when I drafted that at the time, and that was our**
 6 **belief.**
 7 **We now know, and I think I hinted at this very**
 8 **strongly yesterday, that we had a long way to go, in**
 9 **terms of our child protection policy, but when I wrote**
 10 **that letter, I wrote it with good intent. I wasn't**
 11 **trying to cause any particular conflict.**
 12 Q. In fairness to you, the place where the words "exemplar"
 13 or "a model", rather, "of excellence" was used was in
 14 the 2010 ISI report where the recommendation was that
 15 you should follow their advice in order to render the
 16 safeguarding policy a model of excellence. It wasn't
 17 saying you were a model of excellence; it was saying you
 18 certainly weren't there yet, but if you followed the
 19 advice, you might be?
 20 **A. I accept that.**
 21 Q. Yesterday, you accepted that child protection policy was
 22 ultimately your responsibility?
 23 **A. I do.**
 24 Q. On 16 November 2010, you replied to an email you had
 25 received the day before. This is ISI001206. The email

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1 a misunderstanding, but I was told that by the other
 2 inspector"?
 3 **A. No, I didn't go back to them on that. But we did**
 4 **subsequently change the letter before it went out. It**
 5 **actually was posted on 30 August.**
 6 Q. Exemplar of excellence: how did you get that wrong:
 7 "We have been advised ... that our policy is now an
 8 exemplar of excellence ..."
 9 **A. I have the letter which I can refer, which is 32 in the**
 10 **pack, which is the correspondence from the chief**
 11 **inspector, Christine Ryan, to myself, dated 3 June.**
 12 Q. Shall we look at that, because I was about to bring
 13 that --
 14 **A. Yes, okay, that's fine.**
 15 Q. It's ISI001142_003. The top line of the middle
 16 paragraph. So there you go, 3 June, Christine Ryan,
 17 middle paragraph. What she says is:
 18 "With regard to the amended child protection policy,
 19 we understand that a revised version has been posted on
 20 the school website subsequent to the visit on 17 May and
 21 can confirm that it is now compliant."
 22 **A. Yes.**
 23 Q. Can you tell me where the words "exemplar of
 24 excellence" --
 25 **A. It doesn't say that. I was just saying that I had taken**

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1 you'd received the day before, on the 15th, referred you
 2 to an earlier email -- it is lower down on the page --
 3 and said:
 4 "In response to a letter from the abbot,
 5 Christine Ryan has offered to arrange for ISI to work
 6 with the school on finalising their safeguarding/child
 7 protection procedures to ensure they are in line with
 8 all the recommendations in the follow-up report, but we
 9 have not yet received a response."
 10 **A. Well --**
 11 Q. Your reply to that -- can we look at that first -- was:
 12 "I will discuss this with Abbot Martin at our next
 13 meeting as it is clearly a matter for the governors as
 14 the letter was sent to him rather than me as
 15 headmaster."
 16 **A. That's correct.**
 17 Q. Were you trying to deflect the responsibility?
 18 **A. Absolutely not. I cannot deflect my responsibility, as**
 19 **effectively the chief executive of the organisation, for**
 20 **it, and I would be wrong to do it. But I actually can't**
 21 **remember the exact date of it, but it was**
 22 **Richard Shannon who came to assist us with the policy,**
 23 **who had been the lead inspector as well, and we did have**
 24 **some assistance in that policy, and we also had a lot of**
 25 **input from other people as well, and we most certainly**

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1 **did discuss it at the next governors' meeting.**
 2 Q. Did you reply to the ISI finally?
 3 **A. Well, clearly, I obviously didn't. I haven't got**
 4 **a trail to that effect.**
 5 Q. Jonathan West has made a statement, and you have seen
 6 that statement?
 7 **A. I have.**
 8 Q. It's at INQ003040, and I am going to ask us to turn to
 9 this section. Just by way of background, we have
 10 paragraph 197 there. The paragraph before establishes
 11 that Jonathan West, in 2013, after the new board of
 12 governors for St Benedict's had been appointed, decided
 13 to make a further attempt at persuading the governors to
 14 reform the school's child protection policy.
 15 In paragraph 197, he says:
 16 "I received no reply to this letter for some months,
 17 so on 4 September I sent copies of the letter and
 18 enclosures by recorded delivery to the home addresses of
 19 all the governors", and so on.
 20 At 198, he says:
 21 "I received a reply from one of the other governors
 22 saying that he would be taking up the matter at the next
 23 meeting of the governors."
 24 Was the child protection policy subsequently amended
 25 in 2013 in response to, and as a result of, Mr West's

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1 **And one of the -- as a group of governors and former**
 2 **governors, we decided that one of the key parts of**
 3 **the development plan for the last, effectively, four**
 4 **years of my headship would be to make sure the very best**
 5 **practice of safeguarding was existent in the school.**
 6 Q. Did you --
 7 **A. And that's --**
 8 Q. I'm so sorry.
 9 **A. Sorry, and that's what I was endeavouring to do.**
 10 Q. But in fact you can't remember whether you subsequently
 11 amended the 2013 policy in respect of --
 12 **A. I'm sure we did, but I have -- I would be telling you**
 13 **a lie. I haven't got the minutes of the meeting in**
 14 **front of me. But I can assure you that the governors --**
 15 **the new governors set up their own safeguarding**
 16 **committee that was chaired by one of its members, and,**
 17 **basically, there were three governors on that, they**
 18 **always reported to the full governing body and it was**
 19 **a standing item on the full governing body meeting, and**
 20 **I believe, although I'm not involved in any way anymore,**
 21 **that it continues to be the case.**
 22 **So I haven't got the minutes of that next meeting,**
 23 **which I suspect would have been November 2013, but**
 24 **I would be very surprised if there wasn't reference to**
 25 **the safeguarding policy there.**

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1 concerns?
 2 **A. I honestly can't remember, but I repeat what I said**
 3 **yesterday, that we were continually reviewing and**
 4 **updating our safeguarding policy, and that we were**
 5 **engaged with lots of different people helping us in**
 6 **that.**
 7 **But, I mean, this has moved on three years from your**
 8 **previous question, and of course by then we were into**
 9 **a new board of governors. But the new governors did**
 10 **take safeguarding extremely seriously. I think I said**
 11 **in my statement that one of the -- I don't think I did**
 12 **say in my statement. I was originally due to retire in**
 13 **2012. I'd undertaken that if it was the wish of**
 14 **the then advisers and the monastic trustees that they**
 15 **wanted me, I would try to see the school through its**
 16 **transition to -- into the new trust so that by the time**
 17 **we were -- the governors were in a position to appoint**
 18 **a successor to me, that we could have tried to ensure**
 19 **that we got everything as -- I mean, I'm not quite sure**
 20 **of this word of "excellence" now, because I think it**
 21 **changes so much that you can't ever be sure that**
 22 **a document that is considered excellent today is going**
 23 **to be excellent in another time, and I understand that**
 24 **in the times that we actually live in, but that's the**
 25 **commitment I made.**

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1 Q. Did you consider that Mr West's interventions were
 2 malicious?
 3 **A. If you're asking me about Mr West, it's very difficult**
 4 **for me to make comment. I have had very, very**
 5 **limited -- I have had a lot of correspondence from**
 6 **Mr West over a number of years, and certainly, as**
 7 **I indicated yesterday, I was very concerned at the**
 8 **content of not what he was trying to do in terms of the**
 9 **blog, I understood subsequently -- I do -- that the**
 10 **voice of the abuser must be heard and that was a useful**
 11 **channel for doing it. But I did strongly object to the**
 12 **personal and often libellous statements that were**
 13 **written on it.**
 14 **Now, in fairness to him, he eventually put something**
 15 **on the website which said, if anything was posted that**
 16 **he considered inappropriate, he would remove it. Just**
 17 **to give you an example, there was one post in particular**
 18 **I remember, highlighted to me by one of my children who**
 19 **was checking it, which suggested I should go to the top**
 20 **of a building, jump off and nobody would shed a tear.**
 21 **You know, that sort of comment made me disinclined to**
 22 **engage. That was towards the end of my time, but, you**
 23 **know, much earlier on, they were personal, and that's**
 24 **why I didn't engage. To be honest, Mr West, as far as**
 25 **I was concerned, was a member of the public. The first**

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1 **time I ever remember having any contact with him at all**
 2 **was after the 2009 inspection, and Mr West rang my PA,**
 3 **and I was put through to -- and he wanted to say that he**
 4 **had very, very -- serious concerns about our**
 5 **safeguarding policy, and I -- I replied. I remember the**
 6 **conversation. I replied. I said, "Well, we have just**
 7 **been inspected and we have been told that our policy is**
 8 **compliant, so if you do have issue, may I suggest you**
 9 **take it up with ISI", and that's how it started.**
 10 Q. Following Carlile, from September 2012, the school was
 11 said to be completely independent of Ealing Monastery.
 12 There were, however, three governors who were monks:
 13 Martin Shipperlee, the abbot; Dom Dominic Taylor; and
 14 Dom Andrew Hughes, and they attended the governing body
 15 meetings?
 16 **A. Mmm-hmm.**
 17 Q. In 2014, BNT008999_004, the ISI had concerns about the
 18 composition of governors.
 19 In their inspection report, following the
 20 16 November 2014 visit, they said under "Governance" on
 21 page 3:
 22 "The chairman acknowledges that most members of
 23 the board of governors have strong links with the school
 24 because the new Trust was set up quickly following the
 25 Carlile Report. This is not a satisfactory situation,

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1 **representing the Catholic life of the school. So, in**
 2 **a sense, the monastic influence there was actually**
 3 **directed by Carlile in -- Alex Carlile in his report.**
 4 Q. Subsequently, there have been observations made by the
 5 ISI. The question was, what is the composition of
 6 governors now?
 7 **A. Well, I couldn't be 100 per cent sure on this, but**
 8 **I understand that there are -- I know there are still**
 9 **three monks on the governing body, one of which would**
 10 **certainly be the abbot ex officio, so to speak. It**
 11 **certainly has a lay chairman. I think it has still some**
 12 **of the governors that were there at my time, but**
 13 **I understand there are some new governors coming up --**
 14 **come into the scene now.**
 15 **But what I would say about that report, and I'm sure**
 16 **you've read it yourself, that in the pack, that in fact,**
 17 **after that report in -- it was 2015, I think, by the**
 18 **time it actually came out, we had a meeting -- well,**
 19 **first of all, we went to Lord Carlile, because there had**
 20 **been a suggestion that we had not complied with his**
 21 **recommendations, and then we subsequently had a meeting**
 22 **with the DfE representatives. I was present at that.**
 23 **Mr Murphy-O'Connor, the chairman of governors, was**
 24 **present at that, the abbot was at that, and I think two**
 25 **other governors as well. We actually had this situation**

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1 since it is contrary to the Carlile plan that the
 2 governance of the school should be 'transparent and
 3 understandable to outsiders' and the governing body
 4 should be 'broad, wise and representative'.
 5 "During the visit, it was identified that two
 6 precautionary actions specified in the Carlile Report
 7 were uncompleted:
 8 "A monk under restrictive covenant is living in the
 9 abbey", and so forth.
 10 What is the composition of governors now. That was
 11 2014: three monks. What is it now?
 12 **A. Okay --**
 13 Q. Just what is it?
 14 **A. I'm probably not the person to talk about the governors**
 15 **as it is now.**
 16 Q. Do you know who they are?
 17 **A. Yes.**
 18 Q. Who are they?
 19 **A. Can I say, the part of the Carlile recommendation was**
 20 **that there should be members of the monastic community**
 21 **on the governing body, but that they must not be there**
 22 **as chair, but there to protect the Catholic ethos of**
 23 **the school.**
 24 **Now, in Catholic education, so foundation governors,**
 25 **there would always -- there would very often be people**

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1 **where we prepared two different action plans: one which**
 2 **actually dealt with this business of governance, but we**
 3 **felt strongly we had complied with Carlile.**
 4 **So the DfE actually suggested that we wait to get**
 5 **the response from Lord Carlile, and the response from**
 6 **Lord Carlile was that the school had implemented his**
 7 **recommendations as he saw it.**
 8 Q. What effect do you think the changes brought about by
 9 Carlile made, certainly calling on your time?
 10 **A. I think, absolutely right, if we go back to the**
 11 **review -- at the time of the review, and it is clear**
 12 **from our conversations yesterday and today, the**
 13 **regulators, DfE and ISI, did have very serious concerns**
 14 **about the governance, and justifiably so.**
 15 **So I think when the abbot commissioned the report,**
 16 **an independent report, it was done in such a way that**
 17 **the -- well, number one, that the voice of the abused**
 18 **could be heard; and, number two, that we could consider**
 19 **the way forward to make sure that safeguarding, which**
 20 **was always a priority for me and for the governors in**
 21 **general, was -- make sure that the pupils in our care**
 22 **were safe and happy and do so, and that, in a sense, was**
 23 **the outcome of his report when he said, "Look, this**
 24 **can't -- there is a conflict there between the Trust --**
 25 **the school being part of the Trust of the abbey", and**

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1 that's why the decision was made to separate them.
 2 Actually, in his initial report, Lord Carlile was
 3 asking it to start in April 2012, and after we --
 4 counsel had said -- really, we asked could it be
 5 for September, because the start of the school year as
 6 a logical time to be able to -- and from when the report
 7 was published in November, it only gave us effectively
 8 nine months to get the legal situation sorted out, which
 9 was quite complex. But everybody was committed to work
 10 to it.
 11 I mean, it would have been, you know -- it would
 12 have just been so wrong if the report had been
 13 commissioned and everything had been ignored, and that
 14 was the inference of that, but it certainly was not the
 15 case, and --
 16 Q. Do you, as a final question -- in just a minute or so,
 17 can you tell us, do you have any final observations that
 18 you may think -- think may assist the chair and panel in
 19 considering your evidence?
 20 A. Yes. If I could just have a moment to gather myself
 21 before I answer that, because obviously --
 22 Q. I am going to ask you to keep it --
 23 A. Yes, I promise I will. I think it is absolutely right
 24 that the school Trust and monastic Trust are separate.
 25 I absolutely regret all the hurt, all the abuse that so

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1 Pearce, and in fact it's referred to in an email of
 2 23 March from Rodney Fox to Durell Barnes --
 3 Q. I think, in fact, we brought that email up yesterday.
 4 A. So in terms of it, you know, I'm sorry for the hurt it's
 5 caused. I totally empathise with all those who feel so
 6 badly abused over all these years, but St Benedict's
 7 School -- I like to think throughout my headship, but
 8 certainly by the time I was leaving, and now in its new
 9 life, I think is a safe and caring and wonderful school
 10 to be educated in.
 11 MS KARMY-JONES: Thank you. That concludes the questions
 12 that I have for Mr Cleugh. Have you any questions,
 13 chair?
 14 THE CHAIR: We have no questions. Thank you, Mr Cleugh.
 15 A. Thank you.
 16 (The witness withdrew)
 17 MS KARMY-JONES: The next witness then is going to be
 18 Michelle Russell, and I am going to ask my learned
 19 junior Mr Donmall to deal with her evidence.
 20 THE CHAIR: Thank you.
 21 MR DONMALL: Ms Russell, good morning. Could you please
 22 state your full name for the inquiry?
 23 A. My name is Sharon Michelle Russell.
 24 MR DONMALL: Oh, so sorry. Just wait and you will be sworn.
 25

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1 many people have suffered over the years. If I could
 2 turn the clock back to 2002, are there things that
 3 I would have done differently? I think the answer is,
 4 you know, I wish I had've seen them at the time and
 5 I could have moved things forward more quickly.
 6 But I can honestly say that it was never the
 7 intention of anybody at St Benedict's School, either in
 8 the former Trust or the present Trust, to try and
 9 conceal anything, and I think if you -- if I can just
 10 give you a rider to that, to me personally, young people
 11 were the driving force of my entire career, and anything
 12 that would hurt or upset them or lead to their abuse
 13 would just be alien to me. So I think if I can just
 14 finish, in truth, I think -- I deeply, deeply regret the
 15 incident that happened in my time -- I'm sorry, I just
 16 haven't got the -- but the one case that happened live
 17 during my headship which actually brought everything to
 18 a head -- I did last night -- I spent a lot of time, as
 19 you said yourself, reflecting, and I went through all
 20 the documents that I had available, and, in fact,
 21 I think I was a lot more open than in fact had actually
 22 come out, and I did find -- I don't want to waste the
 23 Commission's time, but in fact, if you look, it was made
 24 known to the inspectors at the time before the
 25 inspection about the crimes -- the other crimes of

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1 MS SHARON MICHELLE RUSSELL (affirmed)
 2 Examination by MR DONMALL
 3 MR DONMALL: Ms Russell, good morning. I should start
 4 perhaps by thanking you for coming today. I know you
 5 were scheduled to give your evidence yesterday
 6 afternoon. Could you give us your current position at
 7 the Charity Commission, please?
 8 A. I am currently the director of investigations,
 9 monitoring and enforcement.
 10 Q. We have a very lengthy statement, and detailed
 11 statement, from you, which also has an annex to it. We
 12 are not going to cover all of that material today. It
 13 will be published so people can see the full extent of
 14 it. Today we are going to be focusing really on the two
 15 statutory inquiries that the Commission undertook
 16 between 2006 and 2009. Before going to the report of
 17 those matters, what was your position in that period, so
 18 2006 to 2009?
 19 A. I think it varied in that period. At the beginning of
 20 that period, in 2006, I was a member of the legal team
 21 in legal services, so an advisory lawyer, and then
 22 during that period I was asked to move over into
 23 operational management.
 24 Q. In either role, did you have any direct involvement in
 25 the statutory inquiries that we have been talking about?

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1 **A. I had some involvement in the 2006 one specifically, and**
 2 **the 2009 one, I would have been accountable for it**
 3 **because I was in the operational management side for**
 4 **which the inquiries were conducted.**
 5 Q. So when we turn to it, your statement and your evidence
 6 is based, what, both on the documents that we have seen
 7 but also, to a degree, on your personal recollection; is
 8 that fair?
 9 **A. Yes, that's fair, although I think it says in my**
 10 **statement that there are very few original documents**
 11 **left from the 2006 inquiry because, under our normal**
 12 **retention periods, those documents were duly destroyed**
 13 **in accordance with the retention policy.**
 14 Q. What was the retention policy?
 15 **A. It changed -- it has changed over time. I think I say**
 16 **in my statement that it was about seven years, but**
 17 **because we have had changes of computer systems, there**
 18 **are some records of indicating, for example, that**
 19 **a letter went out, but not necessarily what the letter**
 20 **was.**
 21 Q. Also by way of background, the powers of
 22 the Charity Commission. These have changed over time?
 23 **A. (Witness nods).**
 24 Q. Sorry, you're nodding, just for the assistance of the
 25 people taking the transcript, if you agree, just say

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1 **and we have had new powers in 2016, which we asked for,**
 2 **which changed the landscape again.**
 3 Q. The power of appointing an interim manager, when did
 4 that arise?
 5 **A. I believe it was in place in 2006.**
 6 Q. I understood it was under the section 76 of the 2011
 7 Act, but you think it was --
 8 **A. It was before then. So I think one of the things just**
 9 **to appreciate is the sets of legislation have either**
 10 **given us new powers or amended some of the existing**
 11 **powers. So there's the 1993 Act, the 2006 Act then**
 12 **resulted in a consolidated 2011 legislation, and then we**
 13 **lobbied for further gaps in our powers in 2016.**
 14 Q. So as at the conclusion of the second statutory
 15 investigation in 2009, December 2009 is the date of
 16 the report, the Charity Commission had the power to
 17 appoint an interim manager in respect of Ealing Abbey?
 18 **A. If the triggers in the legislation were met, that's**
 19 **correct.**
 20 Q. Turning then, if we could, to the statutory inquiries,
 21 and if I can ask you to turn up the report, it's at
 22 tab C21 in your bundle, and the page has very helpfully
 23 popped up on our screens too. I am obviously going to
 24 spend considerable time on this document, so it may be
 25 as well to take it out of the bundle, to have it to

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1 "Yes"?
 2 **A. Yes, that's right.**
 3 Q. The functions of the Commission include identifying and
 4 investigating any apparent misconduct or mismanagement
 5 in the administration of charities and to take
 6 appropriate remedial or protection action?
 7 **A. That's right.**
 8 Q. In taking action, the Commission is given statutory
 9 powers?
 10 **A. That's right.**
 11 Q. Under the Charities Act 2009, you had the powers, for
 12 example, to suspend or remove trustees?
 13 **A. It is 2006 legislation.**
 14 Q. If there was an inquiry open?
 15 **A. If there was an inquiry open. So the powers fall into**
 16 **three categories: information-gathering powers, some of**
 17 **which are not dependent on an inquiry being opened;**
 18 **temporary and protective powers, which cut across our**
 19 **statutory bar, because we have a statutory bar that says**
 20 **we cannot interfere in the administration of a charity,**
 21 **except in very specific circumstances, and those are**
 22 **some of the very specific circumstances, if a statutory**
 23 **inquiry was opened; and the third category is more**
 24 **permanent and remedial, but, as you have rightly pointed**
 25 **out, the position in 2006 and before then was different**

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1 hand.
 2 We see the basis of the first inquiry:
 3 "The Commission received an anonymous complaint
 4 in June 2006 alleging that one of the monks of the Order
 5 of St Benedict's, Ealing, Father Pearce ('individual A')
 6 who had previously taught at the school, had been
 7 accused of 'paedophile activity' with pupils of
 8 the school. One of the alleged incidents was in 1984
 9 and the second was in the early 1990s.
 10 "The complainant said that the accusations against
 11 [Pearce] had been dealt with in the civil court system
 12 and that damages had been awarded ... the complainant
 13 further alleged that the charity's funds had been used
 14 to satisfy damages awarded and that this was
 15 a misapplication of charitable funds.
 16 "The complainant also stated that a second monk of
 17 the Order of St Benedict's, Ealing (individual B') ..."
 18 Now, we know that individual as F41:
 19 "... was due to appear soon in court on criminal
 20 charges of sexual assault on a pupil of the school."
 21 We see at 9, going down:
 22 "Due to the serious nature of the complaints raised,
 23 the Commission opened its first statutory inquiry on
 24 28 July 2006."
 25 At 11:

Page 24

<p>1 "The purpose of the inquiry was to establish and 2 verify the facts of what had occurred and determine what 3 action, if any, was required to protect the charity's 4 beneficiaries, its reputation and assets." 5 We see at the bottom reference to "Timescale of 6 inquiry". I will return to that in due course. But, 7 first, in terms of the substantive outcomes of that 8 first inquiry, if we turn the page, we find that in two 9 sections: "Findings" and then "Conclusions". So 10 "Findings". Considering David Pearce first, we see at 11 paragraph 15: 12 "The Commission received assurances from the charity 13 that both individual A and B were immediately removed 14 from access to any vulnerable beneficiaries within the 15 school and parish." 16 Then there is further text in respect of 17 individual B, so F41. Then, going forward, if we may, 18 to paragraph 27, which is on page 6, we have the 19 conclusions in this regard. At 27: 20 "On the basis of the assurances given to the 21 Commission that restrictions were imposed on [Pearce], 22 which precluded access to the children and young people 23 at the charity's premises, the Commission determined 24 that no further action was necessary." 25 So the first question is really on what basis the</p> <p style="text-align: center;">Page 25</p>	<p>1 Commission was satisfied that there were restrictions in 2 place on David Pearce? 3 A. Okay. So the Commission's role is a civil regulator, so 4 we don't have any statutory role in relation to 5 safeguarding. 6 Our role is positioned around the trustees and 7 whether or not they are controlling and managing 8 appropriately the charity. 9 So most of the way in which the Commission worked 10 then was about engaging with the trustees to find the 11 facts and their responses that they would give to us, 12 for which, as the statutory agency, it is a criminal 13 offence in our legislation to provide false or 14 misleading information to us, so under that threat of 15 having to tell the truth to the regulator, it was on the 16 basis of the assurances in writing and a meeting that 17 was held, I believe, which is noted in the case file 18 with the charity trustees alongside liaising with the 19 statutory agencies that would have been involved. 20 Q. So just to get that clear, if the trust says, you know, 21 "He's under restrictions. He doesn't have any contact 22 with children", that's the full extent of 23 the investigation, because they're under a duty to tell 24 you the truth, and so you work on the presumption that 25 they have told you the truth. Is that what you are</p> <p style="text-align: center;">Page 26</p>
<p>1 saying? 2 A. In broad terms, with a couple of exceptions, which is 3 that that was the approach that was taken by the 4 Commission generally as a regulator at the time, to rely 5 on the assurances of the charity trustees that they were 6 giving to us. That approach has changed now, which I'm 7 happy to speak about if you want to. 8 Q. Please do. 9 A. But, secondly, combined with testing what other agencies 10 were involved. So part of the assurances was making 11 sure that the other statutory agencies that you'd expect 12 to be involved were, and that included the police, and 13 I think there's also notes on the file -- although, 14 again, we're trying to piece together things that we 15 don't have the original records for. There is reference 16 to engagement with the Department for Education. 17 Q. What we do have, and I'll turn in due course to how 18 things may have changed. But what we do have, 19 obviously, is some of the correspondence at tab 9, which 20 is page BNT000886; and, two -- sorry, it is tab C9. It 21 has appeared on your screen. It may be as easy. We 22 have this letter from the Charity Commission to the 23 bursar, 27 October 2006, and this is after the inquiry 24 has been opened. Do you see in the largest paragraph: 25 "In order that the appropriateness of the Trustees'</p> <p style="text-align: center;">Page 27</p>	<p>1 reactions to limit the damage to the charity and risk to 2 beneficiaries from the allegations made against 3 Father Pearce and F41 may be assessed, please provide 4 a summary of how the allegations came to light and the 5 actions carried out by the Trustees. In each case they 6 should include details of other agencies notified and 7 the results of any notification and resulting 8 consultation." 9 Then over the page, or the page in the bundle, to 10 divider 10, but on the screen it will be BNT000885_002. 11 This is the response from the trust: 12 "Father David Pearce." 13 The first paragraph: 14 "The Trustees first became aware of accusations 15 against father David Pearce in October 2001 ..." 16 The inquiry has heard that that is not in fact 17 correct. But going on, we say: 18 "Father David himself had ceased to work in 19 St Benedict's School in 1993 when he became bursar and 20 he retired as bursar in 1999. Since that time, he has 21 worked only in the monastery. Since 1993, therefore, he 22 has had no unsupervised access to children." 23 It is that sort of assurance, in effect, that the 24 case officer would have been relying upon when 25 concluding that they were satisfied that, you know, the</p> <p style="text-align: center;">Page 28</p>

<p>1 trustees were taking adequate measures?</p> <p>2 A. Yes, together with the engagement and assurances of</p> <p>3 the other statutory agencies.</p> <p>4 Q. Well, on the engagement and assurances on other</p> <p>5 statutory agencies, if we look at the following page of</p> <p>6 that letter. Ms de Cintra notes the ISC, as it was,</p> <p>7 inspection of the junior school in 2003 and inspection</p> <p>8 of the senior school in 2004 concerning pastoral care,</p> <p>9 there were no concerns about child protection measures.</p> <p>10 We then have the next letter in the correspondence</p> <p>11 over the divider at BNT000884. She says, "We have had</p> <p>12 the clean bill of health", and Geoff Eales, who is the</p> <p>13 Charity Commission case officer in this case, we will</p> <p>14 return to this letter when considering child protection</p> <p>15 policy aspects, but just on this issue of other</p> <p>16 statutory agencies, on the second page, he asks the</p> <p>17 bursar to advise whether the trustees have consulted</p> <p>18 other independent schools or either of the umbrella</p> <p>19 bodies of independent schools and about policies and</p> <p>20 procedures -- sorry, I do apologise. That's the wrong</p> <p>21 bullet point. It is the one above.</p> <p>22 A. Yes, I think it is the one above which refers to the</p> <p>23 other -- did they inform inspectors.</p> <p>24 Q. Exactly. So they asked the school, "Did you inform the</p> <p>25 inspectors?", and the answer comes back, BNT000883.</p> <p style="text-align: center;">Page 29</p>	<p>1 And then, page 3, and we have the passage --</p> <p>2 basically, they hadn't been inspected -- informed. They</p> <p>3 hadn't been informed in respect of F41 because the</p> <p>4 allegations postdated the visit:</p> <p>5 "In respect of Pearce, the inspectors were not</p> <p>6 informed, as Father David did not work in the school and</p> <p>7 had not done so since 1993."</p> <p>8 So they knew the ISI hadn't been informed. We also</p> <p>9 know that the ISI, when it arrived in 2009, didn't know</p> <p>10 that the Charity Commission was undertaking a statutory</p> <p>11 inquiry at all, or that there was a report forthcoming,</p> <p>12 so it would seem that there hadn't been any contact with</p> <p>13 the ISI or the Department for Education in respect of</p> <p>14 this statutory inquiry?</p> <p>15 A. That's not correct. So it is correct, more than likely,</p> <p>16 in relation to ISI, because we would not have any direct</p> <p>17 engagement in that way. That's not the way in which we</p> <p>18 worked with those agencies. But it's not correct in</p> <p>19 relation to -- from my recollection, and on the</p> <p>20 documents that were on the case file, in relation to the</p> <p>21 Department for Education. Again, it is quite difficult,</p> <p>22 because we don't have all of the original records, but</p> <p>23 there are three clear clues that there are in the</p> <p>24 records that we do have and we've forwarded. I think</p> <p>25 there's three snapshots of the notes that I explained in</p> <p style="text-align: center;">Page 30</p>
<p>1 the cases that refer to conversations with Department</p> <p>2 for Education, and you will see, I think it is later</p> <p>3 in March, Geoff Eales' letter actually goes back to</p> <p>4 challenge the Trust about what they did or did not</p> <p>5 report, and whether or not that was right.</p> <p>6 Q. No, indeed.</p> <p>7 A. So --</p> <p>8 Q. I take the point that there is engagement with the Trust</p> <p>9 about this. But, anyway, on the point about the</p> <p>10 adequacy of the restrictions on Pearce, as we see, the</p> <p>11 reliance was placed upon the assurance of the Trust to</p> <p>12 that degree. There was no external authority saying,</p> <p>13 "We have also looked at the restrictions and they're</p> <p>14 fine", for example?</p> <p>15 A. So I partly disagree with that, in that, from</p> <p>16 recollection and from the notes on the file, there is</p> <p>17 reference to us going to the Department for Education,</p> <p>18 not just about what happened historically, but engaging</p> <p>19 with them about our current inquiry, so -- and that</p> <p>20 would have been normal in the way in which we, as</p> <p>21 a civil regulator, would work.</p> <p>22 So if there is another agency, and normally it's the</p> <p>23 police that would have priority, and then any other</p> <p>24 specialist agency in relation to specialist services --</p> <p>25 I think I covered this in my witness statement -- for</p> <p style="text-align: center;">Page 31</p>	<p>1 example, CQC or Department for Education, then we would</p> <p>2 bow to them in terms of leading on those matters.</p> <p>3 So our responsibility, as a civil regulator in those</p> <p>4 situations, is to make sure those other agencies are</p> <p>5 alert to that and manage that. Clearly, that doesn't</p> <p>6 happen where there isn't another statutory agency, like</p> <p>7 CQC or Department for Education, that's involved.</p> <p>8 Q. We have your witness statement, which I think at -- it</p> <p>9 is page CYC000210_030 at paragraph 156, sets out your</p> <p>10 evidence on the first inquiry. We see at 158:</p> <p>11 "During the first inquiry, the Commission received</p> <p>12 assurances that both Father Pearce and F41 had been</p> <p>13 immediately removed from access ..."</p> <p>14 But there's no exhibit there to this further</p> <p>15 documentation to indicate what further steps were taken</p> <p>16 in respect of other agencies to identify that the</p> <p>17 assurances were valid and bona fide?</p> <p>18 A. No, because we don't have our files anymore in relation</p> <p>19 to the 2006/2007 --</p> <p>20 Q. When you said that there was material in correspondence</p> <p>21 that you have seen to say that there was further action</p> <p>22 taken --</p> <p>23 A. Yes.</p> <p>24 Q. -- that's material that was on the file but is no longer</p> <p>25 evident; is that the point?</p> <p style="text-align: center;">Page 32</p>

1 **A. No, my understanding is that we have given IICSA**
2 **everything that we have on our case files, so -- but, as**
3 **I said, there's a difference between a screenshot, which**
4 **indicates there is a conversation or a letter has**
5 **happened, which you've got some of those in the bundle**
6 **but not in the bundle that I've been provided with --**
7 Q. You didn't exhibit any of those screenshots to indicate
8 what, beyond the assurances from Ms de Cintra that we
9 have seen -- beyond those assurances -- was done in
10 order to explore this question of Pearce's access to
11 children?
12 **A. So we just exhibited whatever exhibits we thought were**
13 **relevant in a broad sense. Clearly, this issue has come**
14 **out --**
15 Q. Presumably, that would be a relevant exhibit, wouldn't
16 it?
17 **A. It depends what is relevant. All we have got is the --**
18 **so the main thing that we have is our public report,**
19 **which we publish in relation to every inquiry that we**
20 **carry out. That's the main documents that we have**
21 **alongside the --**
22 Q. Underpinning the public report, is that an internal
23 document which says, "These are the conclusions we have
24 drawn in the public report, and the evidence base for
25 each of those points is X and Y"? Is there such

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1 **would be recorded as a file note on the file, and that**
2 **would become some of the evidence that would be relied**
3 **on in due course. And particularly if it is a telephone**
4 **note, then it would be an internal memorandum that is**
5 **put on there or in relation to that.**
6 **I'm just trying to be helpful in terms of one of**
7 **the difficult things here is our processes and**
8 **procedures changed slightly over the years, so you will**
9 **see, I think, in some of the other correspondence, it is**
10 **much more formalised in terms of internal sort of case**
11 **strategy meetings, which cross-refer to it, but they**
12 **wouldn't have been in place in 2006, they came in at**
13 **a later date.**
14 Q. If we can turn to page -- well, internal page 7 of
15 the report, but it is CYC000255_008. We know the second
16 inquiry was instituted precisely because, during the
17 period when the first inquiry was being undertaken,
18 there was further offending with a student at the
19 school. Looking at paragraphs 43 and 44:
20 "The second inquiry established that following the
21 previous allegations against individual A [Pearce] the
22 charity took advice from the Diocese of Westminster
23 Child Protection Commission as to what future role, if
24 any, he should have in the charity.
25 "The Commission established ..."

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1 a document?
2 **A. So, again, it is quite hard for me to tell without the**
3 **full -- seeing the full documents --**
4 Q. But as a matter of practice at the time, if you can
5 recall, would you -- sorry.
6 **A. -- from 2006. So as a matter of practice at the time,**
7 **what would normally happen is that the findings would be**
8 **drawn from the course of correspondence and file notes,**
9 **including underlying legal advice and exchanges with the**
10 **legal team that would have happened, and the case**
11 **officer would have made an assessment about what -- to**
12 **summarise what those findings were and to make the**
13 **conclusions that follow with them.**
14 Q. Would there usually be a document between the base
15 correspondence or the base investigations and the final
16 published report that says, for example, in respect of,
17 you know, the assurances about access to children,
18 "I particularly relied on this correspondence" or "this
19 investigation with external agency" or "this
20 conversation with Abbot Shipperlee"? Would that be that
21 sort of --
22 **A. What I would expect them to have, as case officers, in**
23 **terms of normal operating procedures, is, every**
24 **conversation that was had, say, with anyone, whether or**
25 **not it's the charity trustee or with another agency,**

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1 And one has to read in that "The Commission
2 established in the second inquiry", doesn't one:
3 "... that following consideration of advice obtained
4 the Trustees decided that individual A could remain at
5 the charity's premises. The following conditions were
6 imposed ..."
7 And we have a list of restrictions. Would you
8 accept that reading of those two paragraphs?
9 **A. I think so, yes.**
10 Q. So it was only after 2008, when the second inquiry was
11 opened, that the restrictions which had been in place
12 since 2005 were actually identified?
13 **A. No. Because I think we covered it a moment ago, in the**
14 **sense of that in the first inquiry, and it was normal**
15 **practice at the time, there was a categorical assurance**
16 **of him having no contact with children and young people.**
17 **So that was the assurance, in broad terms, that was**
18 **relied on in the first inquiry. I suppose it might be**
19 **helpful to explain, the reason why that is so important,**
20 **or was so important for us at the time, is that we had**
21 **to prioritise whether or not there were any live risks**
22 **of harm over perhaps some historical allegations. So**
23 **the focus on the officers is always about, is there any**
24 **live risk of harm that is dealt with.**
25 Q. First, I think you accept, then, that there wasn't

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1 a further question about, well, are there any actual
 2 restrictions, what's the detail of those restrictions,
 3 in the first inquiry. You'd accept that you relied on
 4 the categorical assurance --
 5 **A. Because there was a categorical assurance.**
 6 Q. Exactly. The second point is in respect of live risk of
 7 harm. As we know, the second inquiry was opened because
 8 there was further re-offending during the course of
 9 the first inquiry; there was a live risk of harm. So
 10 that seems a slightly strange answer to give, or
 11 approach to have taken, during the first inquiry, that
 12 an assurance was satisfactory because there was no live
 13 risk of harm?
 14 **A. I think it comes back to our role as regulator and what**
 15 **is expected of us under the powers we have, which is, we**
 16 **are not a statutory agency that's in safeguarding, we**
 17 **pick up safeguarding as part of the general governance**
 18 **issues in relation to managing the charity. We are**
 19 **prohibited from acting in administration of a charity by**
 20 **our legislation. So our role as a regulator, at that**
 21 **time, although it's changed slightly now, is about**
 22 **holding those who are responsible for the charity to**
 23 **account for what they are doing and holding them to**
 24 **account for their assurances.**
 25 **So it was quite normal practice at that time that --**

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1 whether the trustees satisfied themselves that the
 2 charity's policies are in conformity with the
 3 Home Office Code 'Safe from Harm' and Nolan Report."
 4 And asks for further assurance in respect of
 5 the policies. The letter comes back over the divider at
 6 BNT000883_003, and it is the final paragraph:
 7 "The school's policy and procedures have been drawn
 8 up in conjunction with the local education authority.
 9 The school has had regular meetings with Tom Galvin,
 10 Ealing Education Child Protection Officer. He visited
 11 the school last year to ensure that the school's policy
 12 and procedures are in accordance ..."
 13 He goes on:
 14 "He stated that the school's policy and procedures
 15 are as good as, if not better than, in the maintained
 16 sector and for other independent schools."
 17 I think your answer is probably going to be as it
 18 was for the last question, but just to give you the
 19 opportunity: was it on the basis of that representation
 20 from the school that the conclusion that we have just
 21 seen in the report was reached?
 22 **A. Yes, in broad terms, with two exceptions or two**
 23 **additions, which is, clearly, they also referred us --**
 24 **I can see it from the correspondence in relation to the**
 25 **previous ISI reports, so the case officer -- it would be**

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1 **to seek the assurances, because they were responsible**
 2 **for managing their charity, but to hold them to account**
 3 **if that was breached. And that's exactly why, I think,**
 4 **in 2009, the inquiry was opened with such great speed in**
 5 **relation to what had happened, because they'd breached**
 6 **the assurances that they had not just given us but they**
 7 **had given the public.**
 8 Q. It is an important point and we will come to it.
 9 The other -- well, another aspect of the first
 10 inquiry, conclusions related to child protection
 11 policies. Paragraph 17 of the inquiry report,
 12 CYC0002554:
 13 "The Commission obtained copies of the charity's
 14 child protection policies and procedures. The charity
 15 was able to demonstrate that these policies had been
 16 reviewed by the appropriate authorities and that these
 17 were adequate."
 18 Again, we can look to the correspondence to see on
 19 what basis that conclusion was reached, and we have at
 20 divider 11 -- and it is a document we have already
 21 looked at in the earlier context -- BNT000884_002, the
 22 case officer asks:
 23 "I would also be grateful ..."
 24 It is the third big paragraph:
 25 "I would also be grateful if you could confirm

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1 **normal practice for the case officer to check that in**
 2 **whatever form that they would choose to; but also,**
 3 **secondly -- and I think I have given it in evidence in**
 4 **my statement -- that because the Commission is not an**
 5 **expert in child safeguarding or safeguarding, we have to**
 6 **make clear that we approach, when looking at policies**
 7 **and procedures, largely from a commonsense basis, in**
 8 **terms of what would be reasonably expected to be there,**
 9 **and at the time -- and this is where we liaised very**
 10 **closely over the years with NSPCC, et cetera -- we use**
 11 **their benchmarks, effectively --**
 12 Q. There are two elements to that answer. The NSPCC
 13 benchmarks, that's when the Charity Commission obtains
 14 a child protection policy, for example, and then checks
 15 itself as against the benchmarks?
 16 **A. Yes, and we have -- the published guidance we had at the**
 17 **time was ten basic points that NSPCC and other agencies**
 18 **would expect to be covered in a child protection policy**
 19 **and there would be a checklist.**
 20 Q. That's an exercise that the Charity Commission will
 21 itself do?
 22 **A. Yes.**
 23 Q. And then the other point is whether the
 24 Charity Commission establishes that other agencies are
 25 satisfied with the policy in that respect; is that fair?

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<p>1 A. Yes, that's right.</p> <p>2 Q. So where we see in the report in this instance, the</p> <p>3 obtained report -- sorry, the Commission obtained copies</p> <p>4 of the policies and procedures, but then goes on, "The</p> <p>5 charity was able to demonstrate that these policies and</p> <p>6 procedures had been reviewed by the appropriate</p> <p>7 authorities and that these were adequate". The report,</p> <p>8 anyway, doesn't say, "We also had a look at them</p> <p>9 ourselves and satisfied ourselves as against the NSPCC</p> <p>10 benchmark". That second element to the exercise doesn't</p> <p>11 seem to have been referred to in the report?</p> <p>12 A. Correct.</p> <p>13 Q. Because that wasn't something that was done at this</p> <p>14 time, in 2006-08?</p> <p>15 A. I can't say that. There is a judgment that is made by</p> <p>16 the officer and the lawyers as to how to summarise</p> <p>17 enough in a statement of results of inquiry. So I can't</p> <p>18 give evidence -- further evidence on that, I'm afraid.</p> <p>19 Q. Moving on to another aspect of that first inquiry,</p> <p>20 namely, the use of charitable funds to meet civil</p> <p>21 damages and legal costs, we have this -- return to the</p> <p>22 report, please, at page 255_004, CYC, from paragraph 19.</p> <p>23 CYC000255_004. The final paragraph on that page,</p> <p>24 please:</p> <p>25 "The charity confirmed that both individual A and</p> <p style="text-align: center;">Page 41</p>	<p>1 the charity ..."</p> <p>2 So Pearce and the charity:</p> <p>3 "... were co-defendants in the civil claim. The</p> <p>4 charity also confirmed that its legal costs in this</p> <p>5 claim and the award of damages against [Pearce] were</p> <p>6 covered by an insurance policy ..."</p> <p>7 So that's the charity's legal costs:</p> <p>8 "The legal fees for [Pearce] were paid for from the</p> <p>9 charity's funds. The charity explained that it had</p> <p>10 a responsibility to cover these costs for the following</p> <p>11 reasons."</p> <p>12 Then over the page:</p> <p>13 "(a) [Pearce] is a beneficiary of the charity and</p> <p>14 therefore entitled to support from the charity;</p> <p>15 "(b) it is important to defend [Pearce] and priests</p> <p>16 more generally, as their reputation is tied to that of</p> <p>17 the charity. If the charity's reputation is tarnished,</p> <p>18 this could lead to future financial loss to the charity</p> <p>19 through fewer pupils attending the school;</p> <p>20 "(c) it is the nature of the community life that the</p> <p>21 charity is a part of, that it cannot turn its back on</p> <p>22 its members prior to them being found guilty of</p> <p>23 the allegations made.</p> <p>24 "(d) there was a realistic prospect that the charity</p> <p>25 could be held liable for [Pearce's] actions as a former</p> <p style="text-align: center;">Page 42</p>
<p>1 employee of the charity."</p> <p>2 Then we have the Commission's view of those reasons</p> <p>3 at 20:</p> <p>4 "Whilst the Commission did not accept all of</p> <p>5 the explanations offered by the charity for using its</p> <p>6 funds to cover [Pearce's] legal costs, it did consider,</p> <p>7 given the circumstances of this particular case, it was</p> <p>8 arguable that this decision fell within the reasonable</p> <p>9 range of decisions available to the Trustees."</p> <p>10 So the report doesn't identify which of</p> <p>11 the explanations the Commission didn't accept. Can you</p> <p>12 assist us now as to which of those four explanations the</p> <p>13 Commission -- either if you know the ones that it didn't</p> <p>14 accept or which ones you, yourself, wouldn't accept?</p> <p>15 A. So I can't -- just for the passage of time and the lack</p> <p>16 of documents, I can't articulate with any certainty what</p> <p>17 was accepted as a matter of fact or judgment by the</p> <p>18 officers at the time. So all I could do, if that helps,</p> <p>19 is provide my observations for -- particularly with</p> <p>20 a hindsight lens on --</p> <p>21 Q. Yes, please.</p> <p>22 A. -- in relation to this. It would be a relevant factor</p> <p>23 that the individual came within a beneficiary of a --</p> <p>24 a definition of a beneficiary of a charity, but I would</p> <p>25 question the entitlement to support from a charity,</p> <p style="text-align: center;">Page 43</p>	<p>1 because there is clearly discretion on the part of any</p> <p>2 charity as to how to fulfil their objects and how to go</p> <p>3 about that against what's in the best interests of</p> <p>4 the charity.</p> <p>5 On (b), I doubt that we would accept, as a broad</p> <p>6 statement, that it is important to defend priests more</p> <p>7 generally as a matter of general proposition. And in</p> <p>8 relation to reputation -- and, again, please steer me as</p> <p>9 to how far you want me to go into this -- I think quite</p> <p>10 often this is misinterpreted. In charity law terms,</p> <p>11 partly because of some of our restrictions as</p> <p>12 a regulator, where we are focused on, in the</p> <p>13 legislation, is there a risk to the charity's assets,</p> <p>14 and because, as a matter of law, reputation is one of</p> <p>15 the assets of a charity, that's why sometimes there's an</p> <p>16 emphasis in our legislation and our practice about</p> <p>17 protecting reputation, and that's also related to the</p> <p>18 general fiduciary duties that charity trustees have to</p> <p>19 act in the best interests of the charity and to manage</p> <p>20 undue risks. So I wouldn't have said that we would</p> <p>21 accept that it's about protecting reputation, ie,</p> <p>22 keeping things quiet and avoiding criticism, but it is</p> <p>23 appropriate to make sure that charities manage the risks</p> <p>24 that arise for when things happen in a public domain, to</p> <p>25 do so --</p> <p style="text-align: center;">Page 44</p>

1 Q. Well --

2 **A. -- so there is a mix of that on that one. Would you**

3 **like me to move on?**

4 Q. Yes, please do.

5 **A. I think (c) is fair, that if there is someone that they**

6 **have a duty of care over, no matter who they are, that**

7 **they need to ensure that they discharge that duty of**

8 **care. Whether or not we would accept it is damaging to**

9 **the principles of the community, I don't think it is**

10 **about that aspect, but there is clearly a duty of care**

11 **over -- whether it is priests, employees, volunteers,**

12 **people who are engaged with the charity.**

13 **And (d) is -- would be quite a relevant factor in**

14 **terms of the liability that a charity would have in**

15 **terms of any subsequent decisions, in the same way as if**

16 **charities may pay for litigation involving employees in**

17 **other contexts.**

18 **So they would be my observations from a hindsight**

19 **lens.**

20 Q. I think we will turn to some of those points very

21 shortly. Just before -- in respect of this particular

22 letter. Before so doing, on that same point, over the

23 page at "Conclusions", we have at paragraph 29 on this

24 use of charitable funds:

25 "It was arguable that the decision ... fell within

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1 **publicly -- "it was arguable that it was in the range of**

2 **reasonable decisions" I can see is an indicator of our**

3 **uncomfortableness with that. But I appreciate that**

4 **wouldn't necessarily be obvious to everyone from reading**

5 **that paragraph.**

6 Q. Would it have been obvious to the charity?

7 **A. I'm not sure I can speak for them. Certainly for any**

8 **lawyer, charity lawyer, that was advising them at the**

9 **time.**

10 Q. If we could turn, as I promised to do, to a letter at

11 CYC000240_002, it is in the bundle at C18, but it is

12 probably easier just to bring it up. This is a letter

13 from the case officer, who was Tom Hopkins, involved in

14 the second inquiry, I think. He writes -- it is

15 dated May 2008, "Reputational risk". Just going a bit

16 further on this point of reputation, and the second

17 paragraph:

18 "A charity's reputation is one of its biggest

19 assets. As such, we would expect the Trustees to take

20 measures to protect the reputation of the charity in the

21 future. As a minimum, we would expect the trustees to

22 monitor carefully the outcome of any criminal

23 investigation or prosecution or civil claim into

24 Father Pearce or any other person involved with the

25 charity in a similar capacity and to take appropriate

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1 a reasonable range of decisions open to them. The

2 Commission determined that this decision was open to

3 challenge and that the trustees could have approached

4 the Commission for advice on this issue ..."

5 Just on that advice, what would that advice have

6 been?

7 **A. I make two observations on this, and I appreciate it's**

8 **probably not -- to a layperson it's probably not obvious**

9 **from what's written here, but "advice" in that context**

10 **would be a reference at the time to, I think, the**

11 **legislation which was either section 26 or section 29**

12 **advice. Under section 29 advice, charities are open to**

13 **come to us to get comfort that what they are proposing**

14 **is in the range of reasonable decisions of a charity to**

15 **make and, in the context of litigation, often it's**

16 **similar to the Beddoe's protection at court, so there**

17 **can be no challenge afterwards that it was**

18 **a misapplication of charitable funds.**

19 **That said, I can see, with hindsight and from my**

20 **experience, in paragraph 29 that the wording in 29 would**

21 **have been very carefully drawn over by the legal**

22 **services team, because we are very limited in being able**

23 **to say that a decision a charity trustee makes is so**

24 **unreasonable that it's a breach of trust. So the fact**

25 **that we use the words -- we don't often do that**

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1 steps to protect the charity's name and reputation as

2 necessary. We would also expect the charity to take

3 reasonable steps to defend its name and reputation if

4 any charges or proceedings were initiated against the

5 charity. If such a situation were to arise, I would

6 suggest that you contact the Commission for advice."

7 Now, the question that one of the core participants

8 in this inquiry particularly wishes to be asked is in

9 respect of that sentence, "We would also expect the

10 charity to take reasonable steps to defend its name and

11 reputation if any charges or proceedings were initiated

12 against the charity". I think you have just said that

13 this question of reputation can be a bit -- a matter of

14 confusion and a matter of some ambiguity.

15 Now, the concern is, if it were known within

16 a charity that abuse -- you know, there's an allegation

17 of abuse, and a civil claim might be intimated or

18 brought, that the charity might consider that the best

19 way to defend its name and reputation would be to try

20 and deny that the abuse occurred and defend the claim.

21 First, taking my question, I suppose, in two steps,

22 do you accept that reference to "defending reputation"

23 might give rise, in some people's minds, to say, "Well,

24 there's an allegation against us. We must deny it to

25 protect our reputation"? Do you accept that that's

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<p>1 a risk that may occur?</p> <p>2 A. I do, and of concern to us, actually.</p> <p>3 Q. And then the following -- the follow-up is, this</p> <p>4 particular sentence in this letter, do you think that</p> <p>5 this in particular is an example of a lack of clarity in</p> <p>6 how the question of reputational risks is addressed by</p> <p>7 the Commission, because on one reading, it may be</p> <p>8 saying, "Expect to take reasonable steps to defend its</p> <p>9 name and reputation if proceedings are brought", ie,</p> <p>10 defend the claim?</p> <p>11 A. Yeah, I think -- I offer just three observations in</p> <p>12 relation to this. I think it is -- and I have read one</p> <p>13 of the other written witness statements of someone who</p> <p>14 has raised this point, and I actually think that's fair</p> <p>15 criticism and feedback to us as regulator --</p> <p>16 Q. Sorry --</p> <p>17 A. -- about that.</p> <p>18 Q. -- was that Jonathan West's statement?</p> <p>19 A. It was. I read that yesterday. Only the written</p> <p>20 statement. I think that is fair criticism, particularly</p> <p>21 from a lay perspective, if someone is not used to or</p> <p>22 familiar with the charity law fiduciary duties and how</p> <p>23 they fit into context.</p> <p>24 Secondly, I think this is a casualty, as I said</p> <p>25 earlier, or indicated earlier, of our powers and the</p> <p style="text-align: center;">Page 49</p>	<p>1 reason why we existed was about protecting money, not</p> <p>2 people. And that's partly -- we were born out of</p> <p>3 the court in 1853 in the Court of Chancery. So all of</p> <p>4 our powers were directed about protecting money and</p> <p>5 assets, and, therefore, we had to shoehorn the sort of</p> <p>6 wider responsibility not just to the public, actually,</p> <p>7 but to the beneficiaries and service users, around</p> <p>8 reputation.</p> <p>9 Third observation on that: we tried to move away</p> <p>10 from that slightly in terms of -- and it's been made</p> <p>11 more helpful by the legislation, around public trust and</p> <p>12 confidence. So, actually this, is about giving the</p> <p>13 public sufficient public trust and confidence in how</p> <p>14 charities are being run.</p> <p>15 So actually, I think there is something for us to</p> <p>16 reflect on, how that might be misinterpreted, but I just</p> <p>17 want to be absolutely clear, the Commission has never</p> <p>18 said, and would never endorse, that any charity has to</p> <p>19 completely either always deny or defend something it is</p> <p>20 accused of. Our approach as regulator is about, "What</p> <p>21 has happened? If failings have gone wrong, we expect</p> <p>22 you to acknowledge them, accept them and move on", and</p> <p>23 I think just the final thing I'd say in relation to this</p> <p>24 paragraph, which I think is helpful and was getting more</p> <p>25 at that, was about protecting the reputation and</p> <p style="text-align: center;">Page 50</p>
<p>1 addressing the concerns of the parents of the pupil at</p> <p>2 the school by explaining the actions that have been</p> <p>3 taken.</p> <p>4 So there is an aspect of reputation which is about</p> <p>5 actually giving assurance that things have gone wrong,</p> <p>6 but it's okay now.</p> <p>7 Q. Briefly, if I may, on timescale. The first inquiry was</p> <p>8 opened in July 2006, and by January 2008, it hadn't</p> <p>9 fully reported, and that's when the further offending of</p> <p>10 Pearce came to light and the further inquiry was opened,</p> <p>11 reporting in December of that year.</p> <p>12 You also say, I think, that the evidence for the</p> <p>13 first inquiry was completed in March 2007. So we have</p> <p>14 a period from March 2007 through to January 2008 and</p> <p>15 then the second inquiry opened. Sorry, I think I might</p> <p>16 have said that it reported in December that year,</p> <p>17 December 2009 it reported.</p> <p>18 Was that timescale for an inquiry typical at the</p> <p>19 time?</p> <p>20 A. I think it's hard for me to provide a lens on that.</p> <p>21 I suppose the way in which I have tried to piece this</p> <p>22 together is that the four stages -- there are five</p> <p>23 stages of an inquiry. The fourth stage is the end of</p> <p>24 the substantive investigation, which I would have</p> <p>25 expected a letter to have gone back to the charity with</p> <p style="text-align: center;">Page 51</p>	<p>1 the results around about that time. The final, fifth,</p> <p>2 stage is the writing of the report. And I would say it</p> <p>3 is quite -- we find it is quite unusual, as a civil</p> <p>4 regulator, to actually publish the results of our</p> <p>5 inquiry. So that was simply the last thing that was</p> <p>6 done.</p> <p>7 All I can provide an observation upon is that it was</p> <p>8 just about operational priorities, perhaps other cases</p> <p>9 coming in where there is live risk of harm, and just</p> <p>10 balancing those through the legal process that we have</p> <p>11 to follow.</p> <p>12 Q. I suppose the question might be, obviously talking in</p> <p>13 terms of child protection here and the risk to current</p> <p>14 beneficiaries -- for example, whether pupils were</p> <p>15 safe -- would that not have weighed in the scales</p> <p>16 towards a certain urgency in the undertaking and</p> <p>17 completion of the report, at the time?</p> <p>18 A. Yes, in a -- clearly, in a general sense. You know,</p> <p>19 small team, lots of cases, new ones coming in, they have</p> <p>20 to continually juggle which ones get priority. But what</p> <p>21 would normally happen is that the -- the purpose of</p> <p>22 the report is about putting in the public domain the</p> <p>23 findings that are there. The assurances -- in order to</p> <p>24 finish that fourth stage, the assurances that the risks</p> <p>25 were managed. The case couldn't be shut at substantive</p> <p style="text-align: center;">Page 52</p>

1 **investigations unless there was an assurance that things**
2 **were being managed.**
3 Q. Okay.
4 **A. Albeit that I have explained that the Commission at that**
5 **time relied on assurances more than it would unchecked**
6 **now.**
7 Q. That leads nicely into the next questions, really, which
8 are about the 2009 inquiry and what was done. We have
9 the conclusion of the inquiry at paragraph 53 of page 9
10 of the report:
11 "53. Despite assurances from the trustees, they
12 failed to implement the restrictions placed on
13 individual A whilst on charity premises and the
14 Commission is extremely critical of the trustees in this
15 regard. One of the terms of [Pearce's] continued role
16 in the charity was that he was to have no access to
17 children and young people on the charity's premises --
18 the trustees failed to ensure that this was the
19 case ..."
20 First, the language of "extremely critical" from the
21 Commission, is there significance in that language, in
22 terms of the strength of criticism?
23 **A. I think at that time one of our most used powers was the**
24 **public admonishment in relation to our inquiry reports.**
25 **I would say, from recollection, that was quite unusual**

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1 trustees."
2 Beyond those two things, do you know, to your
3 recollection, whether any consideration was given to any
4 other sort of action or sanction?
5 **A. I don't know, I'm afraid. I've got no clue from the**
6 **documents which exist, and I don't recollect.**
7 Q. In the context we have just described, about the
8 importance of assurances and the Charity Commission's
9 reliance upon them, are you surprised that no further
10 action was taken beyond regulatory advice and actively
11 monitoring and review?
12 **A. I think in the context of the time and what would**
13 **normally happen on the Commission's cases at that time,**
14 **it was not out of the ordinary for that to be the**
15 **result, particularly because of the powers and the**
16 **limitations that we had at that time and because of**
17 **the fact that other statutory agencies were involved.**
18 **So, you know, there's a lens which you look back at**
19 **it now and our powers that we have now --**
20 Q. Just on that, what might be the action now, in the same
21 situation?
22 **A. So there's two significant, I suppose, things I would**
23 **say on that which -- well, three significant things,**
24 **which is, one, we have publicly accepted recently, over**
25 **the last two to three years, that actually the old**

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1 **language for us to say publicly, which is an indication**
2 **of our feeling.**
3 Q. I think you -- we were just discussing how the
4 Commission was reliant on assurances, and that's how
5 things went forward. So it was, you know, particularly
6 egregious if those assurances transpired to be false.
7 And yet, when we look at what was done beyond that
8 public admonishment -- we see it at paragraph 54 and
9 regulatory action taken, so we are now going to turn to
10 that:
11 "Following the arrest in January 2008, the trustees
12 took positive steps to protect the reputation of
13 the charity and continue to do so -- the trustees have
14 confirmed publicly that an independent review will be
15 carried out to ensure that this situation cannot
16 reoccur."
17 We see that followed up at 58:
18 "The Commission has requested a copy of
19 the independent review and will actively monitor the
20 charity to ensure that this happens."
21 So, first, we have the independent review and
22 monitoring, and then the second thing we see here is, at
23 paragraph 56:
24 "The Commission provided regulatory advice and
25 guidance to the charity, which was accepted by the

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1 **approach of relying on assurances from trustees is not**
2 **adequate enough in the context that we are now about the**
3 **responsibility that charity trustees have. So we're**
4 **much more proactive and incisive about -- within the**
5 **constraints we still have about doing that. That's the**
6 **first thing.**
7 **The second thing is, we went, in 2005 -- sorry,**
8 **2015/16 to actually say, "We have got advice and**
9 **guidance on one side", which is something we give to**
10 **hundreds and thousands of charities, which may be very**
11 **supportive advice and guidance or actually may be very**
12 **critical advice and guidance, and then we have powers at**
13 **the other extreme which have high thresholds about**
14 **removing people from post if there's**
15 **misconduct/mismanagement, if there's risk to assets,**
16 **et cetera, et cetera. But there is nothing in the**
17 **middle for us to be able to indicate a sort of**
18 **discomfort.**
19 **So one of the powers, for example, that we have**
20 **lobbied for and now have is the power to give an**
21 **official warning to a charity for a period, and although**
22 **I apply the lens of a -- with hindsight, I can see**
23 **that's -- this is the sort of territory in which we**
24 **might do that.**
25 Q. So you think this is a sort of midway territory rather

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1 than interim management or --

2 **A. Well, so if you look at how the practice of -- and we**

3 **have to be careful, because our official warnings are**

4 **not subject to appeal by the tribunal, they are subject**

5 **to JR. So, again, there's a very high threshold on it.**

6 **But the first time we used our official warning, it was**

7 **in relation to a charity that had given us assurances,**

8 **we had set an action plan and we'd gone back and they'd**

9 **failed to do it. And that's exactly the escalation**

10 **point that we approached in that case, which was an**

11 **official warning, which donors, the public, see as**

12 **a very serious thing, an indication that it is just**

13 **advice and guidance.**

14 Q. I just want to turn to two discrete matters now to

15 finish. The first, and we have, I think, touched on it,

16 is in respect of information sharing. We have seen in

17 the correspondence that took place in the first

18 statutory inquiry that it came to the

19 Charity Commission's knowledge that the ISI hadn't been

20 told by the Trust -- by the charity, rather, of

21 the allegations of Pearce in 2003 and 2004 to the ISI.

22 And I think you accepted that the Charity Commission

23 didn't tell the ISI particularly that the Charity

24 Commission was undertaking a review and maybe that it

25 had this concern that on a previous occasion there had

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1 not been disclosure of allegations.

2 Could the Charity Commission have contacted the ISI

3 at that time to say that, to say, "We are conducting an

4 inquiry. There seems to have been an occasion when the

5 trust didn't tell you on an inspection about

6 allegations"? Just as a matter of powers, could the

7 Charity Commission have done that?

8 **A. Our statutory gateway enables us to engage, as a matter**

9 **of law, albeit with a discretion, with any public**

10 **authority.**

11 Q. And you could have --

12 **A. As my evidence is --**

13 Q. -- you could have done --

14 **A. -- we went to the Department for Education.**

15 Q. So sorry, I talked across you. You could have done that

16 in the period of 2006 to 2008?

17 **A. Legally, and practically, yes; operationally, that**

18 **wouldn't have been the practice of the route to do it.**

19 **The right route, as I -- would have been normal in terms**

20 **of our engagement with schools would have been to go to**

21 **the Department for Education, who would then engage**

22 **with, whether it was Ofsted or ISI or whichever was the**

23 **right agency there, and, as I have said in my evidence,**

24 **from what I can see, there are at least three references**

25 **on the file that indicate that that had happened.**

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1 Q. Then the final point, and the final document that

2 I would like brought up, please -- famous last words,

3 but I think that's right -- is BNT000848, which is at

4 divider D1. This is a letter from Nick Gibb MP,

5 Minister of State for Schools, 12 October 2010, and the

6 context, as is set out in that letter and as we know, is

7 that the ISI had undertaken a follow-up inspection in

8 2010, and there is this particular recommendation:

9 "Ensure that any staff or members of the religious

10 community live away from the school if they are subject

11 to allegations of misconduct related to safeguarding or

12 convicted of wrongdoing."

13 The minister asks the chief executive of

14 the Charity Commission in respect of that, because he

15 says:

16 "That recommendation ... falls outside the scope of

17 this department's statutory powers. For that reason, we

18 are referring the recommendation to the

19 Charity Commission as there is an individual resident in

20 the monastery to whom this recommendation is relevant."

21 You see at the bottom of the final paragraph:

22 "... I am referring the case to the

23 Charity Commission to consider whether the circumstances

24 provide grounds for the use of the Commission's powers

25 and whether the continuing residence of the individual

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1 in the monastery is appropriate."

2 I will be corrected if I am wrong, I don't think

3 this letter itself is addressed in your witness

4 statement. Do you know what the response of

5 the Charity Commission was to this letter?

6 **A. So what I have done is referenced on the files, so**

7 **I think if you look at the documents that are on our**

8 **files, you can piece together what happens, which is,**

9 **actually, this is an example where the Department for**

10 **Education and ourselves are working in a pincer movement**

11 **to achieve the result that actually did happen with the**

12 **removal of the individual priest. So the letter is**

13 **actually sent in draft to the case officer, Mr Duncan,**

14 **to comment on so that we can get the wording right,**

15 **because we can't act, or wouldn't act, where another**

16 **department had the powers to act and take the lead on**

17 **it. So you can see what's happened --**

18 Q. So you're saying that this letter is the product of that

19 discussion? Is that what you are saying?

20 **A. Yes, there are documents -- I think there is a document**

21 **in here, actually, in this bundle, which shows it was**

22 **sent to Ken Duncan in draft to comment on it and he**

23 **provided advice to the Department for Education official**

24 **as to what wording to put in.**

25 Q. Yes.

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1 **A. There is also documents in the file, which I believe**
 2 **we've submitted, which show that Ken Duncan -- because**
 3 **there is an exchange of correspondence, that the answer**
 4 **about the priest moving out actually comes in and**
 5 **crosses with the minister's letter, and Ken Duncan**
 6 **writes to the Department for Education and says, "What**
 7 **do we need to do, then, in response to this letter" --**
 8 Q. So the matter --
 9 **A. -- and the Department for Education --**
 10 Q. -- is moved forward?
 11 **A. -- instructs us not to take any further action --**
 12 Q. Okay.
 13 **A. -- and there is no need for us to reply to that letter.**
 14 Q. And, I suppose, the follow-up question is: is that
 15 a frequent occurrence, that there is a request from the
 16 department for Charity Commission action because of the
 17 limits of the Department of Education's powers?
 18 **A. I wouldn't have said it's frequent, but I would say it**
 19 **does happen from time to time and is typical of some of**
 20 **the challenges that both the Department for Education**
 21 **and ourselves, as civil regulator, find about the**
 22 **limitations of one or other of our powers and how we can**
 23 **work together to effectively achieve the result that we**
 24 **are both concerned to achieve.**
 25 MR DONMALL: I have no further questions. It may be that

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1 Q. Becoming headmaster in 1994?
 2 **A. Yes.**
 3 Q. You were elected Abbot of Worth Abbey in 2002?
 4 **A. Yes.**
 5 Q. And Abbot President in 2017, shortly before the
 6 Ampleforth and Downside hearings?
 7 **A. Yes, just in August.**
 8 Q. Dom Jamison, I understand that you have a statement that
 9 you wish to make?
 10 **A. Yes, I do. Thank you. Thank you, madam chairman, for**
 11 **allowing me to inform the inquiry of this.**
 12 **This morning I received a letter from Abbot Martin**
 13 **Shipperlee offering me his resignation with immediate**
 14 **effect as Abbot of Ealing.**
 15 **Now, I have been present for the Ealing hearings, as**
 16 **I was for the previous EBC hearings, and I was**
 17 **particularly listening to Abbot Martin's own evidence,**
 18 **and towards the end, he said, "My administration of**
 19 **safeguarding, as has been serially revealed, is of an**
 20 **insufficient standard".**
 21 **So, in the light of what I heard during the hearing,**
 22 **and in the light of his own self-assessment, I have**
 23 **accepted his resignation.**
 24 Q. Thank you. I understand that Abbot Martin sits on your
 25 council as Abbot President?

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1 the panel do.
 2 THE CHAIR: No, thank you. We have no further questions.
 3 Thank you, Ms Russell.
 4 MR DONMALL: Panel and chair, it may be a convenient moment
 5 for a break.
 6 THE CHAIR: Indeed. We will return at 11.20 am.
 7 (11.05 am)
 8 (A short break)
 9 (11.22 am)
 10 DOM PETER CHRISTOPHER JAMISON (sworn)
 11 Examination by MS KARMY-JONES
 12 MS KARMY-JONES: Can you give us your full name, please.
 13 **A. Peter Christopher Jamison.**
 14 Q. You are the current Abbot President of the English
 15 Benedictine Congregation; is that right?
 16 **A. Yes.**
 17 Q. By way of background, you attended Downside School in
 18 the 1960s?
 19 **A. Yes.**
 20 Q. And studied at Oxford University?
 21 **A. Yes.**
 22 Q. You joined Worth Abbey in 1973?
 23 **A. Yes.**
 24 Q. Teaching at the boarding school for 15 years?
 25 **A. Yes.**

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1 **A. Yes, and he is only there by virtue of being an abbot**
 2 **elected by Chapter, so he will now cease to be a member**
 3 **of my council as well.**
 4 Q. Now, the chair and the panel have carefully read the
 5 detailed statement that you have provided the inquiry,
 6 so I don't propose to go into it again in detail. It
 7 will be published in due course. Rather, I am going to
 8 ask you a few questions, many of which come from the
 9 core participants in the room.
 10 **A. Yes.**
 11 Q. Looking first at paragraph 25 of your statement -- and
 12 I will give you paragraph numbers just to assist you --
 13 you refer to November 2018 and organising and hosting
 14 a seminar on the question of redress in order to find
 15 a better way to engage with victims and survivors of
 16 abuse.
 17 At paragraph 26, you say that, as a result of that,
 18 you concluded that a comprehensive redress scheme for
 19 survivors of abuse by members of the EBC is beyond the
 20 capacity of the Congregation to organise and administer
 21 alone?
 22 **A. Yes.**
 23 Q. You give various difficulties that you might encounter,
 24 such as determining whether a claim is valid, what the
 25 basis for a payment would be.

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<p>1 So the question is: have you considered other 2 redress schemes, such as the redress scheme set up by 3 the London Borough of Lambeth, which deals with all of 4 the issues that you consider to not be possible to 5 organise and administer alone? 6 A. I'm pleased that at that redress seminar we had 7 a representative of victims from the Lambeth scheme who 8 spoke to us, as well as the solicitor for the Irish 9 Government redress scheme, and their inputs were 10 absolutely vital to our arriving at our conclusion. 11 First of all, the Irish solicitor said that the 12 Irish Government, for example, had spent more than 300 13 to 400 per cent more on compensation than it had 14 budgeted for. This shows the complexity, even when you 15 are a government, of trying to set up a scheme that is 16 credible and simply won't run out of money and thus 17 cause more distress by not meeting expectations of 18 victims. 19 Secondly, the Lambeth representative who represents 20 victims also said that the Lambeth scheme is highly 21 contained because they do know how many people were in 22 their homes during a period of -- a fixed period of 23 time, and that those homes no longer exist. However, 24 they are now running into a difficulty to do with foster 25 parents, and so on.</p> <p style="text-align: center;">Page 65</p>	<p>1 So they both highlighted to us that we have to be 2 careful not to raise expectations falsely by promising 3 what a small organisation would struggle to deliver. 4 Q. At paragraph 27 you refer to there being a benefit in 5 guidelines on redress being drafted at the wider level 6 of the Catholic Church? 7 A. Yes. 8 Q. You say this has now been taken forward and worked on by 9 CSAS and a lawyer from the Catholic insurance services? 10 A. Yes. 11 Q. In terms of lawyers, what about lawyers who have 12 specific experience of child victims and child sexual 13 abuse? Are there any of those on the drafting panel? 14 A. At the moment, it is just one lawyer working with CSAS 15 who is engaging with the insurance companies. When she 16 has some sense of what guidelines might work with them, 17 she will also then come back and talk to others, and 18 I hope that will include victim representatives, who of 19 course are crucial, because what one is trying to do is 20 to find a way of saying to those who approach us, "This 21 is how you can expect people to respond to you" and to 22 hold people to account to respond in that way. Because 23 at the moment we don't have guidelines, and, as the 24 inquiry has heard, this can be very distressing, meeting 25 so many different responses. I think that the key to</p> <p style="text-align: center;">Page 66</p>
<p>1 this is to get some agreement in guidelines. 2 For example, that, you know, one will not use 3 a defence when it is an offence regarding somebody 4 between the ages of 16 and 18, that one will not use 5 a defence of saying, "But there was consent". One could 6 rule that out and in advance and say, "We will not say 7 that. We will accept your claim". 8 Q. What about representatives from victims and survivors? 9 Should they be -- are they involved and will they be 10 involved? 11 A. I hope that we will, but you will understand that we 12 started with a lawyer representing the insurers who 13 volunteered to do this work at the seminar and I'm 14 pleased she's carrying it forward and I'm sure -- well, 15 I will insist that it involves people from victim groups 16 as well. 17 Q. At paragraph 30 onwards of your statement, you speak 18 about the fact that all the monasteries have agreed to 19 Praesidium, conducting regular audits of their 20 safeguarding. Now, Praesidium is an organisation based 21 in the US; is that right? 22 A. Correct, yes. 23 Q. In Texas, I think? 24 A. Yes, in Dallas. 25 Q. That works with a number of different organisations or</p> <p style="text-align: center;">Page 67</p>	<p>1 communities to help amend and improve safeguarding 2 structures and policies in order to prevent -- help to 3 prevent -- future abuses. You go on at paragraph 37 to 4 say that Praesidium -- that the process is an audit. 5 The overall aim is for each monastery to progress to 6 full accreditation, where all 25 accreditation standards 7 that they set out are met, and you say that the 8 responsibility of meeting the standards sits with the 9 individual monastery? 10 A. Yes. 11 Q. Do you agree the Praesidium standards are aspirational 12 and advisory rather than mandatory? 13 A. I think that's, for me, not the distinction I would 14 make. I wouldn't accept that distinction. This is 15 a process of continuous improvement against those 16 standards. The parallel I would use is, from my 17 experience of education, when I was a head teacher, 18 I know that inspection regimes set standards that you 19 were meant to achieve, and in any inspection, if you are 20 lucky, you would achieve most of them and some would 21 require further work to achieve them. 22 So I think it is a question of -- setting standards 23 is, I think, the right language to use. They are 24 mandatory in this sense, that I am requiring all the 25 monasteries to achieve these standards within the next</p> <p style="text-align: center;">Page 68</p>

<p>1 few years and then they will be held to those standards 2 at each Visitation, and I am really, really delighted to 3 have Praesidium working with us, because they have 4 a unique combination of being a totally secular 5 organisation with 25 years' experience who also work 6 with religious organisations with over 100 religious 7 orders in America. So they bring that unique 8 combination of secular independence with great 9 experience of working with religious orders, and I am 10 learning a huge amount working with them, as we all are, 11 and I'm really pleased that all the superiors of all the 12 monasteries have really found their engagement with 13 Praesidium really, really helpful to achieve these 14 standards.</p> <p>15 Q. At paragraph 42, you said that the English Benedictine 16 Congregation Trust safeguarding policy is not a policy 17 for each individual monastery. Do you agree that that 18 policy cannot be enforced as against any individual 19 abbot or monastery?</p> <p>20 A. The EBC Trust policy is to do with how the EBC Trust 21 itself, which is an independent civil Trust, how it will 22 respond to claims against it, to allegations, and so on, 23 against it. It is not designed to be a "one size fits 24 all" policy for each individual monastery. Of course, 25 nobody can impose that on the civil Trusts involved.</p> <p style="text-align: center;">Page 69</p>	<p>1 Each abbey is a separate civil Trust. I can require 2 them to have safeguarding policies that meet the 3 standards of Praesidium, but of course each civil Trust 4 is independent.</p> <p>5 Q. What do you do if they don't come up to standard?</p> <p>6 A. The first thing is that Praesidium, working with me, 7 will offer them support, ongoing support -- that's the 8 great thing about Praesidium. It's not like an 9 inspection we're used to, perhaps, from other 10 organisations, where they inspect you, tell you whether 11 you've passed/failed and then come back a year later, or 12 whatever. Praesidium will continue to offer you the 13 appropriate training as well to get there.</p> <p>14 So if they are not meeting a standard, they will be 15 asked to continue to work at it, Praesidium will provide 16 more time with them, will provide more training, and 17 I am really impressed by fact that Praesidium doesn't 18 let go of a standard, it insists that you must now keep 19 working at it and they keep me informed of that.</p> <p>20 Now, in the end, if something really isn't working 21 then I can conduct an Extraordinary Visitation to impose 22 certain things, if necessary. But I would be surprised 23 if that happens, because I'm very confident that 24 Praesidium really is going to help us achieve these 25 very demanding standards.</p> <p style="text-align: center;">Page 70</p>
<p>1 Q. At paragraph 52 of your statement, you say: 2 "... since 2001 the Congregation for the Doctrine of 3 the Faith has required bishops and religious superiors 4 to report to it any clerics against whom there is 'at 5 least probable knowledge' that they have committed 6 sexual abuse of minors."</p> <p>7 A. Yes.</p> <p>8 Q. Do you agree the phrase "at least probable knowledge" is 9 problematic? It gives a wide discretion to abbots in 10 child sexual abuse cases. An abbot may choose to 11 believe the word of a monk over an abuser and then may 12 not be required to conduct a full investigation, and, as 13 we have seen, that has been an issue in this case?</p> <p>14 A. This is about reference to the CDF. It is not about 15 conducting an investigation at the local level. Once 16 you have established that there is a credible 17 allegation, which is a very low threshold in my view, 18 then you would refer it to the CDF, if it was an 19 allegation of sexual abuse. So a very low threshold, in 20 my view -- you know, if there is a substantive 21 complaint, then you would report it. And the local 22 investigation would then be made available to the CDF 23 once the local investigation had been concluded.</p> <p>24 Q. A number of the core participants have maintained that 25 safeguarding of children in the Catholic Church will</p> <p style="text-align: center;">Page 71</p>	<p>1 only be mandatory for all limbs of the church when Canon 2 law is changed. Do you agree with that proposition?</p> <p>3 A. I am not a Canon lawyer, unlike my predecessor, but my 4 experience is this, is that best practice often requires 5 a change in law to follow. So in civil society, we find 6 practices changing and laws are then changed to follow 7 that discovery of what's best practice. I think the 8 Children Act is an example of that.</p> <p>9 So I think that, in my view, law will change to meet 10 the best practice and, if it's necessary for Canon law 11 to change, then it can and will change, and 12 Abbot Richard gave you, yesterday, some recommendations 13 regarding changes in Canon law.</p> <p>14 Q. In your statement, you also say that, without a new 15 culture, new strategies wither away?</p> <p>16 A. Yes.</p> <p>17 Q. You go on to say at paragraph 48 that you aim to 18 facilitate cultural and systematic changes across the 19 EBC Communities?</p> <p>20 A. Yes.</p> <p>21 Q. It has been said on behalf of a number of core 22 participants that the culture of the Catholic Church can 23 only change if Canon law is amended to impose mandatory 24 requirements for the safeguarding of children. Do you 25 agree?</p> <p style="text-align: center;">Page 72</p>

1 **A. Well, Canon law already contains a number of**
2 **requirements regarding the reporting and investigation**
3 **of child sexual abuse. So I think the law is already**
4 **there.**
5 **If the law needs changing and stiffening, then that**
6 **must happen. But I do believe there's an interplay**
7 **between the way an organisation behaves at the cultural**
8 **level, namely, the way people talk about things, the way**
9 **they interact, and the law. There's an interplay.**
10 **I saw this myself with the introduction of the 1989**
11 **Children Act. You know, it did not have an impact**
12 **overnight. It required a dialogue with teachers to**
13 **explain to them what we were trying to achieve by the**
14 **change in the law and what the change in the law**
15 **required from them as regards their attitude as well.**
16 **So I think there's always a dialogue.**
17 **It's "both and", not "either or" in my view.**
18 **Q. I am going to ask you some more general questions.**
19 **A. Yes.**
20 **Q. You have sat in on the three weeks of the Ampleforth and**
21 **Downside hearings?**
22 **A. Yes.**
23 **Q. And you have sat in on, I think, all of this hearing?**
24 **A. Yes.**
25 **Q. And you have, no doubt, read the August 2018 inquiry**

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1 report?
2 **A. Yes.**
3 **Q. Can you cast any light on why these abuses have happened**
4 **in the English Benedictine Congregation context?**
5 **A. I think, first of all, they point to a lack of human**
6 **formation, that we have assumed too much about the human**
7 **qualities of the people who come to us, and we have**
8 **spent too much time helping them to study theology and**
9 **not enough time studying themselves and other people,**
10 **and we have not started from the right base.**
11 **There's a lovely phrase in theology that says:**
12 **"Grace builds on nature". We have perhaps**
13 **overemphasised the grace and not given enough time to**
14 **looking at human nature. I think that's one of the key**
15 **features here. That then relates to assessing and**
16 **accepting candidates into the monastery.**
17 **One of the things we are progressing at the moment**
18 **is a uniform, high-quality process of assessment for**
19 **accepting new members, and this is something I worked on**
20 **when I was working at the Bishops' Conference, and**
21 **I learnt a great deal about how to do this well, and**
22 **I am now introducing across the congregation an agreed**
23 **process derived from the work I did at the Bishops'**
24 **Conference. So I think that's the first one: proper**
25 **assessment of where somebody is within themselves and**

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1 **good human formation going on, helping them to**
2 **understand their own psychology and helping them to**
3 **understand what happens in a relationship. When you**
4 **have a pastoral relationship, what is going on here;**
5 **what are the boundaries; how do you behave in**
6 **a professional way as a priest?**
7 **Some people make a contrast between being**
8 **professional and being pastoral. I don't. There is**
9 **a professional pastoral manner for interacting, and we**
10 **need to help people understand this at a profound level,**
11 **starting with managing themselves and recognising when**
12 **they have come to a point where they might actually be**
13 **vulnerable themselves.**
14 **Secondly, I think the other thing that's gone wrong**
15 **is that leadership has been too self-contained. It's**
16 **very tempting in monasteries, especially monasteries**
17 **with great schools, to create a sort of world of its**
18 **own. Of course, that is one of the attractions of our**
19 **schools, is this sense that this is a very special**
20 **world, a world with very special qualities and great**
21 **traditions which offers young people a very special**
22 **education which so many appreciate, but where it goes**
23 **wrong is, when the leadership sees something going**
24 **wrong, knows it is going wrong and finds it very**
25 **difficult to know where to go to intervene. I think**

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1 **back to the 1990s, when I was a head teacher, the**
2 **Children Act had come into force in 1991 and we had to**
3 **deal with the whole world of safeguarding. There was no**
4 **LADO. There was no COPCA or CSAS. We were really quite**
5 **on our own, and trying to figure out how to respond was**
6 **not easy at that time, but we always went to**
7 **Social Services or the police when we had concerns.**
8 **That was just our default setting.**
9 **But I think now people have come to realise that**
10 **they can't rely on their own judgments in the way they**
11 **did in the past. So for me it is that combination of**
12 **not helping people entering our monasteries to**
13 **understand their own need for deep human formation, and,**
14 **secondly, when they fail, when something goes wrong,**
15 **when they make a mistake, when they commit a crime,**
16 **actually the leadership then knowing what steps to take**
17 **definitively to start to address this in a professional**
18 **and proper way.**
19 **Q. What do you think of the nature and response of**
20 **the institutions that you have heard about?**
21 **A. Clearly, there was catastrophic moral failure on the**
22 **part of individual monks, followed by a chronic weakness**
23 **of leadership to address that. That is a source of**
24 **great shame, because it's led to so much suffering for**
25 **victims and survivors and I have been really affected by**

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1 understanding how this suffering is lifelong, because
 2 some of the victims/survivors who gave evidence very
 3 generously agreed to meet with me, and I spoke with
 4 them, and I have met some of them now more than once,
 5 and I'm so struck by how this is a lifelong struggle for
 6 many. There are some who overcome it, which is
 7 extraordinary, but for many, it is a lifelong suffering,
 8 and that, for me, is the great motivator.

9 What motivates me and what I am trying to achieve
 10 now is those conversations with the victims.

11 Q. Would you agree that there hasn't been sufficient
 12 oversight by the English Benedictine Congregation as
 13 a whole, as leaders, as the leader of these individual
 14 institutions?

15 A. I think individual abbots and the Abbot President have
 16 not, in the past, exercised sufficient authority and
 17 leadership in these areas, and I think we have heard
 18 them admit that during the course of these hearings.

19 I think what's good, though, is that they have
 20 recognised that and they introduced the new powers for
 21 the Abbot President in 2013, and then, in 2017, they
 22 introduced new powers for an abbot to be able to move
 23 a monk even against the wishes of that monk. We can now
 24 move people, as we see appropriate.

25 Q. And against the wishes of his own abbot? If an abbot

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1 selection followed by human formation; the need to stop
 2 being self-referential. Those are for me the two key
 3 issues.

4 Moving beyond that, I want to know what it is about
 5 Catholic culture that seems to have facilitated abuse
 6 and a lack of addressing abuse. In that regard, I am
 7 working with the University of Durham to support
 8 a project they have called "Boundary Breaking" which is
 9 a three-year project with the university to look at
 10 culture in institutions and to try to understand --
 11 look, any of the institutions, and you are looking at be
 12 many institutions, all those institutions will have
 13 aspects of their culture that facilitated abuse. But we
 14 then want to say, "Okay, that's what can happen in
 15 institutions in general, but what is it about the
 16 Catholic culture that's particular that might have been
 17 a particular quality in the Catholic Church: the misuse
 18 of its doctrine, the misuse of Canon law". All of
 19 those. We want to know, where are those cultural
 20 features? Because, when we find them, we must
 21 re-express them. We must re-express the doctrine and
 22 re-express the law so that that can no longer be one of
 23 the factors facilitating abuse.

24 So I think there are three things for me: human
 25 formation; an end to this self-regulating world; and

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1 takes a view that, say, an allegation is not serious, is
 2 a lie, he believes the monk, what happens if he
 3 disagrees with that decision?

4 A. Well, I think, firstly, if there was an allegation, it
 5 would now be being dealt with by the LADO and by the
 6 police, or strictly by the LADO if it was a lower level.
 7 And the conclusions of that report from the LADO and the
 8 police would be crucial, and if there was no further
 9 action by the police, then of course there is also
 10 a church assessment of risk, and that comes from an
 11 outside Commission, that recommendation, and if an abbot
 12 chose to ignore the recommendation of a LADO or an
 13 outside Commission, then I would want an explanation
 14 why, because I have this continuing oversight now of
 15 safeguarding, and I would say, "Well, you've got to
 16 explain to me why you're ignoring this", and if I wasn't
 17 satisfied, the constitution introduced in 2013 now
 18 allows me to conduct an Extraordinary Visitation, and in
 19 an Extraordinary Visitation, I can impose an Act of
 20 Visitation which has the strength of Canon law, and
 21 I can insist on the recommendation being implemented.

22 Q. What do you think are the lessons learnt from the
 23 history of abuse and the failures in safeguarding?

24 A. There are many. I have highlighted two already: the
 25 preeminence of human formation and correct selection --

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1 finally an in-depth look at our culture.

2 Q. You may have answered my next question already, but
 3 I will ask it nonetheless: now that you are
 4 Abbot President, how do you propose to combat child
 5 sexual abuse in the English Benedictine Congregation and
 6 its schools?

7 A. First of all, by developing our responsiveness to
 8 victims and survivors, and I have already talked about
 9 meeting them and the redress seminar. I want to
 10 emphasise to the panel, I think there are real issues
 11 around charity law which can make it very difficult.

12 So -- I mean, there are some technicalities around
 13 charity law and the payment of compensation to victims
 14 that actually put a barrier. I have seen a situation
 15 where someone wants to make a payment, believes
 16 a complainant, but actually charity law makes it quite
 17 difficult to do without there being a legal judgment
 18 saying, "You, as a charity, have now legal authority to
 19 use charitable funds for that compensation", and the
 20 lawyers in the room will be much more familiar with this
 21 than me, but I was quite shocked to discover such
 22 barriers. So wanting to improve responsiveness to
 23 victims and survivors.

24 Secondly, accountability. And that's where
 25 Praesidium comes in. An outside, non-governmental

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<p>1 organisation of a secular -- within the secular world, 2 holding us to account against 25 very high, but very 3 helpful, standards. 4 Then, finally, transparency: trying to be more 5 transparent with our own members about their own human 6 needs, about making sure that the Abbot President is 7 kept informed, making sure that authorities are kept 8 informed. So I think under those three headings, 9 responsiveness, accountable and transparency, we have 10 a lot of work to do, we are by no means there, but we 11 are setting out very clearly to improve, because 12 improvements have already been made but I now want to 13 focus them even more clearly into those three areas. 14 Q. Do you have any final further observations that you 15 would like to make to the chair and panel to assist them 16 with their consideration of all the evidence that they 17 have heard? 18 A. I want to offer an apology again to victims and 19 survivors, but I want to add to it this, that I hope the 20 actions that I have described here a little bit and more 21 fully in my witness statement indicate that I believe 22 that an apology without action is worthless, and that my 23 apology is only as good as the actions that we are now 24 taking. I hope, therefore, the reality of the apology 25 becomes clearer in the coming years by the quality of</p> <p style="text-align: center;">Page 81</p>	<p>1 the actions we are taking. 2 I repeat that apology based on these actions that 3 I have outlined. 4 Finally, somebody contacted me by email to say how 5 stupid it was that the EBC said it welcomed your report, 6 panel, last summer about the Ampleforth and Downside 7 hearings and saying how could I welcome such a difficult 8 thing. I want to repeat that: I do welcome it. Because 9 I believe that it is possible in life to welcome 10 something that is both painful and helpful. I want to 11 reassure the panel that, as painful as this is, we do 12 find your work helpful. I want to continue the dialogue 13 with you, because I am also a member of the Catholic 14 Council for IICSA, so I want to continue this dialogue 15 to work with you to make sure that the EBC has the 16 ability to create safe spaces for young people. 17 We have, as a religious order, been working for one 18 and a half thousand years with young people in Europe. 19 I believe that we have made terrible mistakes, but with 20 your help, I believe we can become a very safe space and 21 to continue what I think is a great tradition of 22 monastic life and education. 23 MS KARMY-JONES: Thank you. I have no further questions. 24 THE CHAIR: We have no questions. Thank you very much. 25 (The witness withdrew)</p> <p style="text-align: center;">Page 82</p>
<p>1 Statement of WITNESS RC-A622 (read) 2 MS KARMY-JONES: Chair, at the outset of this hearing, 3 I indicated that there were a number of statements that 4 we wished to read during the course of the proceedings, 5 and that we might come back to them by the time we came 6 to the end of the hearing. There was one in particular 7 that I wish to come back to at this stage to finish off 8 these hearings into the English Benedictine Congregation 9 and to remind us what these hearings are about. It is 10 the statement of RC-A622 who you will remember is the 11 boy who was raped by Andrew Soper on a number of 12 occasions. It is a statement made on 9 November 2017 to 13 the Metropolitan Police and it was made shortly before 14 the Soper trial. It begins with the usual sworn 15 declaration. He says: 16 "This statement is my attempt to explain the effect 17 the abuse I suffered at the hands of Andrew Soper has 18 had on both my childhood and adult life. His abuse 19 ruined my schooling. Previously, before I was 12, I was 20 a happy child, always courteous and polite. I made 21 friends easily, enjoyed going to school, took pride in 22 my appearance and saw it as a privilege to go to 23 St Benedict's School. I felt that I was being afforded 24 an opportunity to receive some of the best education 25 money could buy. I always completed my homework and was</p> <p style="text-align: center;">Page 83</p>	<p>1 achieving reasonable grades. 2 "All that changed when the abuse started. I had 3 aspirations of being a vet or naval pilot. I wanted to 4 make something of myself. However, I started truanting 5 because of the abuse, my learning dropped off, I could 6 no longer concentrate properly at school and I started 7 drinking alcohol. I stole money from my parents to fund 8 my drinking and I was drinking to numb the pain of what 9 Soper was doing to me. I was confused as to what was 10 going on. To this day, I can still smell the aroma of 11 the dirty habit that Soper wore and the smell of 12 the leather on the desk that I was made to bend over. 13 I don't think these smells will ever leave me. I feared 14 going to school once the abuse started. 15 "Soper was 28 years of age when he started to abuse 16 me. He groomed me and led me to believe that what he 17 was doing to me was right. For a very long time, 18 I thought that having sex meant when a man, in this case 19 Soper, put his penis into your anus. I never received 20 any formal sex education at school nor did my parents 21 sit down and discuss anything with me. 22 "My relationship with my parents was strained. It 23 was failing on my part because of what was happening to 24 me and my only wish was that I could have told my mother 25 why, but Soper took her away from me. I couldn't tell</p> <p style="text-align: center;">Page 84</p>

<p>1 them, their faith was so strong they couldn't have 2 believed it of a priest. I so wanted to tell her but 3 I was pent up with so much anger and was behaving 4 totally out of character. I was very angry as 5 a teenager and would often have outbursts of anger 6 towards people and property. This was not me as 7 a person, not who I really was, but I was rebelling 8 because of Soper. Although it may sound callous, I was 9 happy when my father died, as it finally allowed me to 10 build up the courage to tell people about Soper. My 11 father would never have believed me. I had a strict 12 Catholic upbringing but no longer have any faith. Soper 13 ruined my belief in God and as a result I refuse to 14 speak with anyone connected with the church." 15 He goes on to talk about his prospects of getting 16 a decent job and something to fund his retirement going 17 out of the window. He had jobs, but failed to hold them 18 down due to his excessive drinking. He goes on to say: 19 "I have failed, up until now, to maintain a personal 20 relationship with anyone. I lost contact with my son 21 and daughter due to my behaviour and their mothers will 22 have nothing more to do with me because of what 23 I became. I lost them and my homes as a consequence of 24 Soper's abuse." 25 He goes on to say:</p> <p style="text-align: center;">Page 85</p>	<p>1 "I turned to drink as an escape when things got 2 tough or the conversations were too difficult." 3 He says: 4 "I have only just started to try to rebuild 5 a relationship with my children as I am trying to put 6 all that happened behind me. I hope they will 7 understand why I was the way I was and forgive me." 8 He talks of the loss of friends. He talks of 9 falling into excessive drinking. He talks of 10 depression, loss of sleep and anxiety and issues with 11 mental health. He says: 12 "I often wonder what life would have been like if 13 I hadn't been abused. I have had brief moments of 14 happiness but can count them on one hand. Examples of 15 this were the birth of my children and my recent 16 wedding." 17 He says of his recent wedding: 18 "I have still not fully told my wife in any great 19 detail. I just can't bring myself to tell her, or other 20 people, for that matter, anything, as I find it so 21 humiliating and, every time I start to talk about it, 22 I become upset and tearful. I am afraid that people 23 just won't believe me. It happened. It was real. As 24 a result of everything building up, the investigation, 25 the trial, the medication I take, I have not consummated</p> <p style="text-align: center;">Page 86</p>
<p>1 my marriage. This has put a strain on our relationship 2 although she continues to be very supportive and we 3 maintain a good relationship. I feel like I am still in 4 a black hole and just can't climb out." 5 He talks about the effect of giving evidence at 6 trial and then finishes, saying: 7 "I hope this statement has gone some way to explain 8 how not only my own life, but that of my family, has 9 been ruined as a result of Soper's acts. Although 10 I don't think I can ever put down in words fully what he 11 has done to me. He has damaged me for life and I am 12 afraid that that damage will never go away. There are 13 literally hundreds of people out there who either have 14 or continue to suffer sexual abuse. What drove me on 15 through all of this was that if I could play a small 16 part in bringing an abuser to justice, then I have 17 achieved something good on behalf of all the others who 18 suffered." 19 That concludes the evidence we wish to call. 20 THE CHAIR: Thank you, Ms Karmy-Jones. 21 MS KARMY-JONES: Chair, as we said at the outset, core 22 participants have ten minutes to give their statements. 23 We will try and help by letting them know at the 24 8-minute point. 25 THE CHAIR: Thank you. Mr Scorer?</p> <p style="text-align: center;">Page 87</p>	<p>1 Closing statement by MR O'DONNELL 2 MR O'DONNELL: It's Mr O'Donnell this time, chair. In 3 closing, I intend to focus on the evidence that you have 4 heard in this case study showing that the Roman Catholic 5 Church continues to prioritise the protection of 6 its communities of the priests and its reputation over 7 the safeguarding of children in its care. As well as 8 Jonathan West, we represent five core participant 9 survivors in this case study, as you know. The panel 10 has not had sufficient time to hear from all of them, 11 but you did hear from A8, who, in his oral evidence, 12 described St Benedict's School as "cold, grim and 13 forbidding". He said some pupils were treated correctly 14 but if your face didn't fit for any reason, that wasn't 15 the case at all. You were quickly made aware that you 16 were an outsider. 17 A8's evidence was that physical violence and 18 brutality were rife at the school in his time there, and 19 this atmosphere of physical intimidation we say is 20 relevant to your considerations in this inquiry because 21 that served as the backdrop to the sexual abuse of 22 children by the English Benedictines there. 23 The panel has heard evidence of this overlap between 24 the physical intimidation at the school and the sexual 25 abuse that was rife there. For example, we heard that</p> <p style="text-align: center;">Page 88</p>

<p>1 Laurence Soper was particularly fond of caning children. 2 This is because he used this as a means to inflict 3 sexual assault. 4 A8 describes Soper sexually humiliating him by 5 feeling his bottom on the pretext of checking for hidden 6 padding. He recalled this as being more than just 7 touching to check if you had a book or a scarf tucked 8 down your pants, it was highly intrusive groping. There 9 has been evidence that certain members of 10 the Benedictine Community were abusing boys openly at 11 Ealing and St Benedict's, and indeed it appears, from 12 the evidence we have heard, to have been common 13 knowledge amongst the children and the school staff that 14 this was going on. 15 First example: many of our core participants have in 16 their statements described Father David Pearce being 17 known as "Gay Dave" to the students and, according to 18 Abbot Shipperlee, also to the teachers. A645 described 19 how Pearce seemed to actually revel in this description, 20 which had nothing to do with any attraction to adult men 21 but, as A6 put it, was a reference to Pearce's sexual 22 interest in prepubescent teenage boys. 23 Second example: John Maestri. Well known to host 24 boys at his apartment at weekends. A24 described in his 25 statement how, "On one such occasion, he approached me</p> <p style="text-align: center;">Page 89</p>	<p>1 and, holding me, he kissed me on the lips. Afterwards 2 he retreated to his bathroom for a mysterious amount of 3 time". The third example: another monk, RC-F96, would 4 abuse boys during class itself. Our core participant 5 Jeremy Harvey described how this teacher would pick up 6 children and put them on his knee. This happened to 7 him. He said, "As I was sitting on his knee, he then 8 put his hands down my shorts and inside my underpants. 9 He would then fondle my genitals. This would last for 10 a few minutes on each occasion". 11 But what about the culture at Ealing Abbey and 12 St Benedict's? The English Benedictines are proud, they 13 say, that their monastic life is like that of a family. 14 This seems to us important, because the fact that the 15 Benedictines consider themselves a family means that 16 they may well have a flawed reaction to any allegations 17 of child sexual abuse made against members of that 18 family. The first response is to give your family the 19 benefit of the doubt and to trust what family members 20 say over the complaints of children and their families. 21 Abbot Shipperlee in his evidence would like you to 22 believe that, despite eating, praying, working and 23 living in the monastery community with the monks, he was 24 unaware that children were being sexually abused at 25 Ealing and St Benedict's. On the basis of his evidence</p> <p style="text-align: center;">Page 90</p>
<p>1 to this inquiry, our core participants just don't 2 believe him. 3 His purported ignorance seems to be inconsistent 4 with his testimony to you on 6 February, when he said he 5 was aware, for example, that Pearce, whom we have 6 established he knew had the nickname "Gay Dave", had 7 boys whom he would prefer and that he was aware of 8 Pearce's preference for blond children. 9 Now, we submit that Abbot Shipperlee's true attitude 10 towards his Benedictine family is best demonstrated by 11 the evidence in A6's statement when he describes what 12 happened when A6 went to Abbot Shipperlee in 2004 to 13 complain about Pearce. He says this: 14 "Shipperlee's response was that the school had 15 always known about Pearce's behaviour but had done 16 nothing about it. I was outraged. He just had his 17 hands in his habit and looked nonchalantly at the floor 18 as if in a different world, annoyed I was there. 19 I asked the abbot why they kept Pearce on. He said if 20 Pearce had been removed, it would cause parents to think 21 that Pearce might have sexually abused boys and it was 22 better, therefore, to keep him on so parents would not 23 think anything had happened. Taking him out might raise 24 suspicion. I told him this was completely wrong and he 25 just shrugged his shoulders. The image of the school</p> <p style="text-align: center;">Page 91</p>	<p>1 was more important than stopping sexual abuse. The 2 abbot told me he'd heard rumours about Pearce and his 3 reputation before Pearce had ceased to be headmaster of 4 the junior school." 5 We submit those observations entirely undermine the 6 legitimacy of Martin Shipperlee's evidence to this 7 inquiry, that he was essentially ignorant of 8 the allegations about Pearce and other abusers. 9 Now, the panel always hears -- it has just heard 10 from the last witness -- that the Roman Catholic Church 11 has listened and apologised and learnt its lessons, but 12 what about now? Where are we, at the present time, 13 looking at the evidence in this case study? 14 Well, Kate Ravenscroft, the current head of drama at 15 St Benedict's, she said in her statement that it was 16 only after 2016 that she felt she could report potential 17 allegations. That followed the deputy head, 18 Peter Allott, being convicted of possession of indecent 19 images of children and watching videos as part of what 20 the sentencing judge called a "paedophile ring". 21 Let's look at the Laurence Soper example. It is 22 telling that Detectives Chris Sloan and Shaun Richardson 23 say in their report from last year, from October 2018: 24 "At every turn, those we spoke to within the 25 Catholic Church claimed not to have any current or</p> <p style="text-align: center;">Page 92</p>

<p>1 actionable information or intelligence about Soper. 2 However, the information was there to be discovered and 3 disclosed, if there had been an appetite to do so. For 4 example, as is now known, as early as late March 2016, 5 Soper himself sent a letter to the Vatican Bank 6 providing them with his current address in Kosovo. 7 During the time he was at large, Soper had also 8 periodically contacted the Vatican Bank asking for funds 9 to be transferred from his Vatican Bank account to an 10 account he'd set up with a bank in Kosovo." 11 Abbot Shipperlee gave telling evidence in response 12 to a question from Professor Evans when he said he 13 always found it mentally difficult and he flinched from 14 even considering the subject of child sexual abuse, 15 because it is, as he put it, "not something that people 16 talk about, or want to". Indeed, he appeared to us to 17 shy away from and flinch away from the subject when he 18 was asked about it here in this inquiry even. 19 Now, it seems sensible to us, in these 20 circumstances, that he has tendered his resignation, as 21 we have just heard he's done today, but the timing of 22 this decision obviously begs the question of whether he 23 would have remained in post had he not given his 24 evidence to this inquiry, and even with Abbot Shipperlee 25 stepping down, our core participants still fear that</p> <p style="text-align: center;">Page 93</p>	<p>1 there will be others in positions of real power in the 2 Roman Catholic Church in the current era who prefer to 3 ignore allegations of child sexual abuse and others who 4 would deliberately withhold information from external 5 agencies, such as the whereabouts of those on the run 6 like Soper, all of which begs the question of whether 7 parents in the current era can truly trust Roman 8 Catholic institutions to keep their children safe from 9 harm. 10 Now, trust is important. Dom Yeo, in his statement, 11 emphasised the importance of trust in monasteries like 12 Ealing Abbey. He said this: 13 "All the members have to be convinced of 14 the essential trustworthiness of their fellow members 15 and there is a natural tendency amongst monks and nuns 16 to assume that the other members of the community can be 17 trusted, which naturally leads them to trust people who 18 may turn out to be untrustworthy." 19 He goes on to conclude: 20 "The challenge faced by religious and many others in 21 recent years is that of how to address this." 22 In other words, how to combine a culture of 23 safeguarding with a culture that is based on trust. 24 That all sounds very reasonable, but we say there is no 25 real challenge here, no issue. Modern society requires</p> <p style="text-align: center;">Page 94</p>
<p>1 that the first concern should be the safeguarding of 2 children and we say that the English Benedictine 3 Congregation can't be trusted to do this. 4 The answer as to how to do this, we say, is, of 5 course, mandatory reporting. You have heard relatively 6 little evidence from external agencies. There was no 7 time to hear from the Independent Schools Inspectorate 8 or the Department for Education, for example. But what 9 you have heard suggests they're effectively powerless to 10 get into these institutions and make real change. 11 You will know the only really detailed, specific 12 proposal for mandatory reporting is that that has been 13 prepared by Mandate Now. It has already been submitted 14 to the inquiry. 15 I have not mentioned Jonathan West. I will mention 16 this lastly. He summarises the importance of mandatory 17 reporting in the context of this case study very, very 18 well in his blog. He says: 19 "Mandatory reporting would make it almost impossible 20 for a long-running situation, such as occurred at 21 St Benedict's, to happen. First, there will inevitably 22 be a greater climate of awareness, making reporting more 23 likely, and, second, no head teacher is going to risk 24 being prosecuted for suppressing a report of somebody 25 else abusing. These two factors would make it extremely</p> <p style="text-align: center;">Page 95</p>	<p>1 dangerous for abusers to operate in schools. They won't 2 dare. Abuse will be prevented as a result." 3 To conclude: A8, in his evidence on Monday, said the 4 reason he'd come to give evidence to the inquiry, was 5 out of a sense of duty to the boys who can't be here 6 today. I say that since World War II we reckon hundreds 7 of boys were molested at St Benedict's. Just at 8 St Benedict's. He went on to say: 9 "If this country had had mandatory reporting like 10 the mandatory reporting legislation currently in draft, 11 hundreds of those boys wouldn't have been abused." 12 In my submission, him and Jonathan West are both 13 right. Unless I can assist further. 14 THE CHAIR: Thank you, Mr O'Donnell. Mr Khan? 15 Closing statement by MR KHAN 16 MR KHAN: Chair, these submissions are being made on behalf 17 of G2 and, given the very limited time that we have been 18 given for these closing submissions, they will 19 necessarily have to be short. For that reason, we 20 simply provide you with the headlines of the matters we 21 submit you should consider, and of course we may 22 supplement those in due course. 23 What we ask you first to do is to recall, to invite 24 you to recall, that it has taken a great deal of courage 25 and resilience for the victims and survivors of sexual</p> <p style="text-align: center;">Page 96</p>

<p>1 abuse, who have clearly been traumatised and invariably 2 disbelieved, to come forward and to share their accounts 3 of abuse with us. 4 In relation to the conclusions that we ask you to 5 draw from the evidence that we have heard, we list them 6 in headline format. 7 Firstly, we ask you to conclude that, based on the 8 evidence that we have heard, there was enough 9 information and material at St Benedict's School and in 10 the monastic community, Ealing Abbey, to suggest that 11 those in positions of authority knew, or should have 12 known, that sexual abuse of children was taking place. 13 Secondly, that from at least 1993, if not earlier, 14 there was clear guidance on the issue of safeguarding of 15 children and it is therefore reasonable for you to 16 conclude that the school knew, or should have known, 17 what to do about safeguarding and how to do it. 18 Next, that safeguarding guidance was either not 19 followed or inadequately followed by those who were 20 responsible for discharging that duty. 21 Next, that the reason the guidance was not followed 22 or inadequately followed was because the priority was 23 not safeguarding children but, rather, protecting the 24 reputation of the monastic community. They are 25 lucrative schools. And to avoid external interference</p> <p style="text-align: center;">Page 97</p>	<p>1 with their treasured autonomy. 2 Next, to the extent that any action was taken in 3 relation to the safeguarding of children and reports or 4 complaints of sexual abuse, it was only taken when 5 forced to by mounting public criticism. 6 Next, the structure of the Catholic Church was such 7 that it obstructed accountability and responsibility for 8 the safeguarding of children and dealing with sexual 9 abuse. 10 The approach taken to allegations of sexual abuse by 11 those responsible for safeguarding children was that 12 they would only be acted upon once proven, as opposed to 13 accepting that the abuse happened unless there was 14 evidence to the contrary. Indeed, allegations of sexual 15 abuse against the clergy was considered as being 16 motivated by malicious intent. 17 Next, the monastic community and those who were 18 aware of the abuse demonstrated a lack of transparency 19 and candour about the allegations. Indeed, we ask you 20 to conclude that there was a deliberate attempt to 21 minimise and obfuscate the prevalence of child sexual 22 abuse at the school by those in power. 23 Next, the senior clergy, such as the abbot, had the 24 power to take enforcement and immediate action against 25 those who were alleged to have been involved in abusing</p> <p style="text-align: center;">Page 98</p>
<p>1 children, but deliberately chose not to. 2 Those in positions of power within the abbey and the 3 school created a culture of fear and intimidation, 4 secrecy and silence, which meant that those who wanted 5 to speak out about sexual abuse of children could not 6 and often did not. 7 Next, there were failures by the leadership of 8 the abbey and the school to properly safeguard children, 9 which led directly to sexual abuse resulting in trauma 10 to the victims of that abuse. 11 In relation to the prosecuting authorities -- the 12 police and the Crown Prosecution Service -- through what 13 we suggest is an apparent mixture of deference to these 14 men of cloth and so-called reputable schools, because of 15 ineptitude and avoidance of heavier workloads, they 16 failed victims and survivors through a number of means. 17 Firstly, a failure to prosecute, despite there being 18 credible evidence of such abuse; ensuring that warnings 19 and appropriate safeguarding measures were taken in 20 relation to suspects who were not prosecuted, even in 21 cases where individuals had made admissions of such 22 abuse; and, thirdly, to bring prosecutions earlier, 23 despite having a litany of allegations against the same 24 suspects. 25 What of the regulatory authorities? Well, we ask</p> <p style="text-align: center;">Page 99</p>	<p>1 you to conclude the regulatory authorities, such as the 2 Charity Commission, the Department for Education and the 3 ISI, through, again what we suggest is an apparent 4 mixture of ineptitude and avoidance of heavier 5 workloads, failed victims and survivors in the following 6 ways: they failed to take sufficiently robust steps to 7 identify risks to children at the school and other 8 schools through their inspections which were based 9 solely on assurances we have heard today, and material 10 placed before them by the very people whose acts or 11 omissions they were tasked to rigorously investigate; 12 that they were totally reactive, responding only to 13 media publicity and prompts from concerned members of 14 the public; they failed to take appropriate regulatory 15 action against the schools feeding into the perception, 16 the real perception, conscious or otherwise, of abusers, 17 monasteries and schools that they could act with 18 impunity. 19 The Charity Commission, as we have heard today, 20 allowed the monastery and the school to focus on 21 reputational risk to the charity rather than the risk to 22 children. The regulatory bodies failed properly to 23 communicate internally and externally with each other 24 and other statutory bodies about allegations and 25 concerns about child sexual abuse and safeguarding.</p> <p style="text-align: center;">Page 100</p>

<p>1 Instead of imposing immediate statutory measures, 2 successive governments failed victims and survivors by 3 delegating the incredibly important task of formulating 4 and enforcing adequate safeguarding to the very people 5 responsible for tolerating abuse and covering it up. 6 The resultant process has taken decades, and is 7 still not complete, at untold cost to the victims and 8 survivors of child sexual abuse. 9 Chair, we note that a number of witnesses have 10 admitted failings only when confronted by them and have 11 sought to explain or abdicate their responsibility for 12 those failings by way of hindsight. These witnesses 13 would have us believe that what looks inevitable in 14 hindsight was far from obvious at the time. We invite 15 you to conclude that the evidence shows that it was 16 obvious that sexual abuse was taking place and that it 17 was obvious that nothing was done about it. 18 We submit that this use of hindsight by a witness 19 only serves to undermine their sincerity and makes any 20 apology utterly meaningless and hollow. So what do we 21 ask on behalf of G2 in relation to the future? We ask 22 for a report by this inquiry which clearly and robustly 23 criticises all of the above as a catalyst for change 24 across the board. 25 This inquiry cannot, should not, become just another</p> <p style="text-align: center;">Page 101</p>	<p>1 in a long line of reports which allows those criticised 2 to merely pay lip service to the ultimate goal: 3 a genuine concern to protect children. 4 We ask for and support mandatory reporting. We 5 submit that self-interest has trumped child protection 6 for so long that this is an absolute necessity. 7 Child abuse exposed in the confessional should not be an 8 exception. Indeed, we submit, on behalf of G2, who was 9 abused in one, that children under 18 ought not to be 10 alone in a confessional. 11 Means of enforcement. All statutory authorities 12 have been completely and endemically reactive to adverse 13 publicity in taking action. We support the submission 14 made by others that there should be a statutory body 15 with power to police and enforce basic standards of 16 child protection akin to the Health and Safety 17 Executive. Because, just to take one example, the 18 Catholic Church cannot be trusted to police itself. 19 Fourthly, child sexual abuse is a worldwide problem 20 which, in some countries, is only beginning to be 21 identified and tackled. We invite the inquiry to share 22 its final report with the governments of other countries 23 with a recommendation that an international working 24 group be set up to implement what we consider to be 25 a universal system which tackles child sexual abuse and</p> <p style="text-align: center;">Page 102</p>
<p>1 has a minimum standard of safeguarding. 2 According to the document provided on 6 February to 3 the inquiry by Father Christopher Thomas, local bishops 4 or religious superiors were bound to report any cases of 5 child sexual abuse to the competent office of 6 the Holy See; such reports seemingly conveyed via the 7 Apostolic Nuncio in a diplomatic pouch. 8 We submit that a statement from the Holy See must be 9 obtained which should address not only what the Holy See 10 were aware of in relation to allegations of abuse at 11 Ealing Abbey and St Benedict's School, but in relation 12 to allegations of child sexual abuse and all the other 13 cases studied and/or in England and Wales generally and 14 what steps it took to address that issue, or 15 confirmation that it took none. We submit that 16 a failure to obtain such evidence would undermine the 17 entire credibility of this round of the inquiry's 18 investigation and the inquiry's work generally. 19 We ask that an adverse inference should be drawn 20 from any refusal to provide a statement. 21 I make these final comments. 22 We invite the inquiry to record in its final report 23 that, whilst the victims and survivors of sexual abuse 24 who have given evidence, either orally or in writing, to 25 this hearing did so with a great deal of courage. Those</p> <p style="text-align: center;">Page 103</p>	<p>1 witnesses who gave evidence on behalf of the monastic 2 community or the leadership of the school did not, we 3 submit, show such courage. 4 Indeed, we submit that there was a degree of 5 cowardice such that, instead of bravely accepting that 6 they had failed, and failed abysmally, in their duty to 7 keep the children in their care safe, they sought to 8 evade responsibility and passed blame to others. 9 Whilst, chair, it is clear that the primary 10 responsibility for sexual abuse rests with the abuser, 11 blame still attaches to those who stand by and don't do 12 anything about it. 13 As recorded in Dante's "Inferno", and I paraphrase: 14 the hottest places in hell are reserved for those who, 15 in times of moral crisis, maintain their neutrality. We 16 consider this to be an apposite statement in the context 17 of these proceedings. Thank you very much. 18 THE CHAIR: Thank you, Mr Khan. Mr Jacobs? 19 Closing statement by MR JACOBS 20 MR JACOBS: Chair, thank you. I represent F13 in this 21 investigation and 18 other core participants across the 22 investigation. As you heard on Monday, F13 was sexually 23 abused as a 10-year-old child at Fort Augustus, which, 24 before it closed, was part of the English Benedictine 25 Congregation. F13 has followed these proceedings this</p> <p style="text-align: center;">Page 104</p>

<p>1 week closely and has asked me to convey to you his 2 feelings of trust and confidence in the inquiry process. 3 I will now address you on our continued position 4 that the Catholic Church is culturally and structurally 5 incapable of safeguarding children. This morning, 6 Dom Jamison asked the question, what is it about the 7 Catholic culture that seems to have facilitated abuse 8 and a lack of addressing abuse? Well, the answer is 9 that the culture within the Catholic Church is one where 10 the reputation of the church and the protection of its 11 clerics will be put first to the detriment of victims. 12 Cardinal Nichols, in December, said that an 13 archdiocese is more like a family. Talking of 14 the priesthood, he said there are strong emotional bonds 15 between the priests and it is difficult for priests to 16 accept that some of their brothers may be criminals. 17 In the context of the Benedictines, the culture 18 inhibitors are even more serious. A Benedictine monk 19 takes vows of poverty, chastity, obedience and 20 stability. Essentially, though, the vow of stability, 21 through that vow, a monk is tied to a particular abbey 22 for life. Traditionally, the first priority of an abbot 23 is to maintain the stability of his particular monastic 24 community. It is clear from the evidence that we have 25 heard from Abbot Shipperlee that, notwithstanding recent</p> <p style="text-align: center;">Page 105</p>	<p>1 constitutional changes, the culture of an order is not 2 to remove a monk from an abbey, even where the monk is 3 a known abuser of children and where, in many cases in 4 the English Benedictine Congregation, the abbey is 5 located next to a school. When asked whether he had 6 authority to send Pearce away, the answer from the abbot 7 was: "I can discuss with him and we can decide if it's 8 best for him to go away". 9 The "church before Vatican" approach can be seen 10 from the abbot's repeated view that it was best for 11 David Pearce, a known abuser of children at 12 St Benedict's School, to remain amongst his community. 13 When later asked if he was thinking of Pearce first 14 and the safety of children second, the abbot replied, 15 "I was plainly not thinking the right way around". We 16 submit that the abbot's actions did not arise from any 17 personal naivety on his part, but the deeply engrained 18 cultural traditions within the Benedictine Order as 19 enshrined by the Rule of St Benedict and the vow of 20 stability. The risk to children from an abuser living 21 metres away from their school and the views of the 22 families of the abused were all secondary matters. 23 Tellingly, Dom Jamison this morning stated in his 24 evidence "Without a new culture, new strategies wither 25 away". That was in his statement.</p> <p style="text-align: center;">Page 106</p>
<p>1 The evidence in this investigation has demonstrated 2 culturally that, for the Benedictines, the preservation 3 and the reputation of the community will always be the 4 first consideration. This is not an approach which 5 would be permitted to exist in any other organisation. 6 We ask that the Catholic Church is not given any 7 deference in this inquiry process. 8 In relation to structure, the opaque and Byzantine 9 structure of the Catholic Church is a significant 10 barrier to child safeguarding. All institutions within 11 the church are bound to follow Canon law but are 12 otherwise independent from each other. 13 Praesidium and the EBC Trust policies are not 14 mandatory. The only unifying factor is Canon law. The 15 current code lists child sexual abuse as a crime only in 16 respect of a canon prohibiting clergy from having sexual 17 activity. No reference is made to the protection of 18 children. 19 There is another canon which relates to the 20 obligation to avoid scandal. So in theory, an abbot who 21 is less than candid to the authorities about child abuse 22 can be seen to be acting within the principles of Canon 23 law. 24 The purpose of these canons is not to protect 25 children, but to protect the church and the faith. Now,</p> <p style="text-align: center;">Page 107</p>	<p>1 as to the structure of the order, it's the Rule of 2 St Benedict which forms the main part of the EBC 3 constitution. I won't detail much about it because of 4 the time constraints, but perhaps unsurprisingly, dating 5 from AD480 to 550, it does not contain any provisions 6 which address an issue about how an abbot is to respond 7 to sexual abuse of children by monks. It is right to 8 say that in the parts that deal with disciplinary 9 measures, abbots are directed to show all care and 10 concern towards offending brethren. We say that unless 11 the whole church, which includes hundreds of orders, 12 with their own internal procedures, is standardised and 13 restructured, there could be no hope that children will 14 be safe from abusers acting in the confines of that 15 church organisation. 16 History, however, tells us that this will not 17 happen. We would suggest that this inquiry adopts the 18 recommendation of the Australian Royal Commission, that 19 Canon law should be amended so the defences connected to 20 child abuse are framed as crimes against the child 21 rather than against morals or a breach of obligations in 22 respect of particular clerics. It is unacceptable that 23 Canon law, the only constant within the church, makes no 24 reference to any freestanding crime of rape or indecent 25 assault of a minor, particularly in circumstances in</p> <p style="text-align: center;">Page 108</p>

<p>1 which child abuse has been rife within the church for 2 generations. 3 Dom Yeo has rightly acknowledged that Canon law 4 should change. He has proposed some changes in relation 5 to the scope and range of penalties for child abuse, 6 delictum gravius contra mores. These proposals are 7 helpful but we say they cannot suffice alone. Canons 8 which protect the reputation of the church at the 9 expense of victims of child abuse must also be set 10 aside. What is required is a sea change in the Canon 11 law and, sadly, the evidence before this inquiry 12 demonstrates that the church has no appetite for this. 13 In conclusion, last year, we called for the 14 Catholic Church to provide a position statement on its 15 ability to implement safeguarding. Nothing happened. 16 In November, we asked the church to put forward 17 a national best practice safeguarding model and urgent 18 implementation plan. This has been met with silence. 19 Also, and this is important, from November, you have 20 been asking the Vatican's Apostolic Nuncio to provide 21 important evidence to assist the inquiry. This evidence 22 is important, not least because the Vatican was in 23 contact with Laurence Soper after he had absconded from 24 the criminal justice system. The continued lack of 25 co-operation from the Nuncio is a matter of much concern</p> <p style="text-align: center;">Page 109</p>	<p>1 and we maintain our position that the possibility of 2 a defence to diplomatic immunity should not prevent you 3 from using your powers under section 21 of 4 the Inquiries Act to require compliance with this 5 inquiry. It would, of course, be open to the Nuncio not 6 to raise that defence and you would be entitled to draw 7 strong adverse inferences from any recourse to 8 diplomatic immunity. 9 Perhaps the inaction from the Vatican is because the 10 church believes that it is best placed to resolve the 11 issue of child sex abuse within its ranks. You may 12 shortly hear from those who represent it that an 13 extraordinary meeting on this issue will take place at 14 the Vatican later this month. But we say the inquiry 15 cannot defer to a closed procedure in a foreign 16 sovereign state and this is an important point: the 17 safety of children in this jurisdiction must be 18 determined by legislation in the United Kingdom. 19 We ask you to recommend that child safeguarding 20 policies must be set against accepted objective civil 21 norms, not on the basis of antiquated and 22 inward-looking, faith-based codes which are regulated 23 from overseas. 24 Chair, you should recommend that Canon law must be 25 reformed because this is what is needed to reform the</p> <p style="text-align: center;">Page 110</p>
<p>1 culture and the structure of the church, but we are now 2 in the 19th year after the Nolan Report, so you must 3 proceed on the basis that the church will not cooperate 4 with those recommendations. 5 Consequently, chair, your ultimate finding must be 6 that the Catholic Church cannot be entrusted with the 7 care of children in this jurisdiction. Thank you. 8 THE CHAIR: Thank you, Mr Jacobs. Mr Chapman? 9 Closing statement by MR CHAPMAN 10 MR CHAPMAN: Chair, panel, I act for six core complainants, 11 two of whom were abused by Benedictine monks. 12 Chair, you posed a question to Mr Turner, the 13 diocesan safeguarding officer. You asked him: "Why had 14 all this occurred within the monastery and the diocese?" 15 How could so few people -- a dozen or so monks -- cause 16 so much trouble over so long a time? That is the 17 fundamental question, and the answer to it determines 18 what should be done. 19 Let me attempt an answer by first rejecting what 20 answer Mr Turner gave you. He suggested all this had 21 occurred because opportunities for child abuse arose out 22 of inadequate child protection procedures. He is wrong, 23 and it is important that you realise how wrong. Because 24 there was no lack of procedure or want of knowledge of 25 child safeguarding.</p> <p style="text-align: center;">Page 111</p>	<p>1 Ealing Abbey had received clear, unequivocal advice 2 from its own solicitors from as early as 1993. 3 Abbot Shipperlee himself was involved with implementing 4 Nolan from its inception. He was part of the working 5 committee. 6 Abbot Shipperlee was the man who said, in effect, 7 he'd become so familiar with safeguarding that he was 8 bored with the training. You will not have forgotten 9 the case study in Downside relating to Father Hurt and 10 the headmaster, Father Aelred, who in 1970 acted so 11 quickly to involve the statutory authorities. 12 It is not difficult to keep records. It is not 13 difficult to promulgate a covenant of care in your 14 monastery. It is not difficult to pass complaints to 15 the statutory authorities. It is not difficult to 16 assist the police with their enquiries. It is not 17 difficult to give full and frank disclosure to the 18 school inspector and Charity Commission. It is not 19 difficult if the will is there. But the will was not 20 there. 21 So what is the right answer? Why were these holy 22 men so unwilling. We say the answer to your question is 23 hiding in plain sight. It is what the Benedictines have 24 told you themselves. It is what they believe. Their 25 beliefs are simply incompatible with the welfare of</p> <p style="text-align: center;">Page 112</p>

<p>1 the child being paramount. Incompatible in principle, 2 incompatible in practice. It is not that the 3 Benedictines wish harm upon children; it is that, when 4 there is a conflict between their beliefs and harm to 5 children, their beliefs are paramount. 6 We know that the first duty of the abbot is to his 7 monks, according to the Rule of St Benedict. That is 8 why Abbot Shipperlee accepted he might well have said 9 about David Pearce, "What can I do? He is my friend". 10 That is why Abbot Shipperlee said about Soper, 11 "I couldn't believe the complaint. I had a very high 12 regard for my predecessor", rather than trust to an 13 investigation. It is why Abbot Yeo told him, "My 14 concern was, above all, how is the community going to 15 get out of this mess?", rather than investigate the 16 rumours of abuse that were running rife in Ealing Abbey. 17 It is why David Pearce, since his release from prison, 18 lives in a flat paid for out of the abbey's charitable 19 funds. It was the key conclusion of the inspectors' 20 report in 2010, where it was written: 21 "It appears that the Trustees' commitment to Trusts 22 within the community and to St Benedict's Rule of love 23 and forgiveness may have outweighed their responsibility 24 for children's welfare." 25 Dom Jamison today accepts, to put it mildly, there</p> <p style="text-align: center;">Page 113</p>	<p>1 might be a cultural problem. 2 That is why I say the answer is in plain sight. 3 Their beliefs have not changed. They will not change. 4 It is nothing to do with knowledge and experience of 5 safeguarding policies. It is to do with the very nature 6 of the institution itself. And unless the nature of 7 the institution itself changes, the risks to any 8 children in their care will continue because children's 9 welfare will not be paramount. 10 What is the implication of this? The implication is 11 this: the failure to recognise why this institution was 12 and remains a particular risk to children is an 13 important part of the explanation for the failure of 14 the statutory authorities to remedy the problem in 15 Ealing sooner. The regulatory approach is one that 16 focuses on individuals and policies. The regulators do 17 not ask themselves, "Is the belief system of this 18 institution compatible with child safeguarding?", nor 19 are their statutory powers and duties aligned to dealing 20 with that question. The police's chief task is to 21 investigate criminal offences of individuals. The CPS's 22 chief task is to prosecute criminal offences of 23 individuals. The Charity Commission's chief task is to 24 ensure trustees' assets, including the reputation, are 25 preserved, and there is obviously the potential for</p> <p style="text-align: center;">Page 114</p>
<p>1 a conflict between these competing objectives. 2 It may not be in the charity's interests to expose 3 child abuse in their midst. 4 Penny Jones -- and I am assured this statement will 5 be published today; her statement from the Department 6 for Education, dated 18 January this year -- makes it 7 year the Department for Education lacked the power to 8 require Ealing to remove abusive monks from the abbey. 9 That is why we have the letter from the MP asking the 10 Charity Commission, who accepted it wasn't their chief 11 role to deal with safeguarding, to exercise their powers 12 to ensure that result. She writes: 13 "We had no means of requiring proprietors to make 14 changes that would tackle the deep-rooted attitudes 15 which underpinned poor safeguarding practice." 16 None of these statutory bodies has both the 17 paramountcy principle as its key objective or the power 18 to enforce it. The lack of co-operation and information 19 sharing between the various statutory bodies was also 20 lamentable. I refer to Penny Jones' statement about 21 that. She says how the local authority designated 22 officer was unaware of the Charity Commission 23 investigation. She says, and this is in contrast to 24 what Ms Russell said this morning, the 25 Charity Commission did not inform the Department for</p> <p style="text-align: center;">Page 115</p>	<p>1 Education or the ISI of its inquiries. This confused 2 mosaic of powers and objectives of the various statutory 3 bodies involved with Ealing is powerful support for the 4 creation of an HSE-type body dedicated to the 5 enforcement of minimum child safeguarding standards. 6 Such a body must have the power and the duty to take 7 into account the espoused beliefs of the institution and 8 the historical record of institutions with those 9 espoused beliefs. 10 RC8 was surely not wrong when he estimated that 11 there had been hundreds of victims over the years, just 12 at Ealing. No doubt a new regulator will be expensive 13 to run, but it would be a false economy, as well as 14 unjust, not to have it. Let us not leave it to 15 individuals like Mr Jonathan West to have to put the 16 world to right. 17 THE CHAIR: Thank you, Mr Chapman. Mr Collins? 18 Closing statement by MR COLLINS 19 MR COLLINS: Thank you, ma'am. This inquiry may well 20 conclude from the evidence heard that the 21 Catholic Church, and this term is used in its broadest 22 understanding, is incapable of safeguarding and policing 23 if -- and I emphasise "if" -- left to its own devices. 24 The Catholic Church is a complex organisation, and 25 it is very difficult -- perhaps impossible -- to</p> <p style="text-align: center;">Page 116</p>

<p>1 determine the lines of accountability, and particularly 2 so in cases that you have been hearing about, especially 3 where the perpetrators are priests, monks or some other 4 person of authority, be it religious or otherwise. 5 As you have heard, under Canon law, dioceses, 6 archdioceses and religious orders are largely 7 autonomous. Whilst it is unnecessary to understand or 8 attempt to understand the rationale behind that or the 9 history behind it, it is nevertheless a fact that has to 10 be recognised because it has implications for 11 accountability, and the civil law presents a similar 12 picture. 13 We say that this has only served to aggravate the 14 situation where laws passed by parliament to assist in 15 the safeguarding of children and the apprehension and 16 prosecution of offenders conflicts with the interests, 17 the policies, the doctrines and the attitudes of the 18 Catholic Church. 19 The actions taken by the Catholic Church in 20 responding to complaints of sexual abuse on the part of 21 abusers, whether alleged or proven, has clearly been 22 influenced by theological doctrines about the 23 priesthood, about religious life, about forgiveness. We 24 have seen a misguided understanding of what it is to do 25 right, as well as the influence of principles and</p> <p style="text-align: center;">Page 117</p>	<p>1 cultural attitudes within the church, and very much 2 entrenched ones. 3 Moreover, we have seen the influence and the 4 instruction of the Holy See, and that cannot be ignored 5 either, because it becomes really key to this issue of 6 governance. 7 In simple terms, it comes down to this: which law is 8 supreme, that of the UK parliament or that of 9 the Catholic Church? This inquiry perhaps can arrive at 10 an answer to that question when it examines what best 11 can be described as the arm's-length attitude received 12 by the police in their investigation of Abbot Soper. 13 The evidence has exposed a tragic failure of 14 leadership over many years. The evidence has afforded 15 this inquiry a window through which it can see into the 16 very souls of the men in charge of the institutions 17 under examination or under positions of authority and 18 responsibility. 19 You have heard the many expressions of regret and 20 sorrow, and they themselves afford an opportunity to 21 understand why there is an absence of candour, why there 22 is a minimisation of sexual abuse, why there is a subtle 23 shifting of blame, a confusion in understanding right 24 from wrong, and a conscious or subconscious arrogance 25 towards the victims.</p> <p style="text-align: center;">Page 118</p>
<p>1 These failings have resulted in children being 2 abused and the infliction of considerable suffering and 3 much damage. Much of this, of course, could have been 4 avoided if those in positions of authority and 5 responsibility had not been so concerned about the 6 reputation of their institutions, about the reputation 7 of the Catholic Church and about the welfare of their 8 fellow priests, but instead had put the interests of 9 children first. 10 The current arrangements and structures concerning 11 the policing of itself and safeguarding can be best 12 described, we would say, as "too little too late". 13 Hindsight and retrospection cannot be substitutes for 14 effectiveness. The separation of entities and the 15 creation of glass walls rather than assisted policing 16 and safeguarding in the Catholic Church only serves to 17 diffuse accountability, and I refer to the evidence of 18 Martin Shipperlee and Mr Turner on that. 19 The people that matter -- the people that matter -- 20 are the ones who remain in charge, which brings me on to 21 governance, because that is clearly an issue that is 22 going to have to be addressed, because if there is no 23 change, the risk of child sexual abuse in the 24 Catholic Church and its organisations will remain. 25 If the Catholic Church is to continue to be allowed</p> <p style="text-align: center;">Page 119</p>	<p>1 to provide education for children in this country, there 2 must be change, in order to ensure effective 3 safeguarding and policing, and for that to happen, there 4 has to be true accountability. 5 We know that where there is good governance, those 6 institutions are better equipped to police and 7 safeguard. If an institution has leaders who view 8 safeguarding training as something of a bore or as 9 a burden, then safeguarding is going to be compromised. 10 That is as plain as a pikestaff. 11 Considerable power and influence rests in the 12 clergy, and the more so with seniority. With that power 13 comes privilege, which engenders a perception of 14 immunity from the consequences of wrongdoing outside the 15 walls of the Catholic Church. The consequence has been 16 the lack of accountability, and were it not for this 17 inquiry, would we now be aware of the reality? 18 I suspect not. 19 Those in the positions of power were aware of 20 offending and they failed at every level and have faced 21 no sanction. You have heard this morning in evidence 22 that there is a recognition that the culture has to 23 change, and that change has to come from within the 24 Catholic Church. But to expect the Catholic Church to 25 reform Canon law is going to be the triumph of hope over</p> <p style="text-align: center;">Page 120</p>

<p>1 experience. What there has to be is change through 2 legislation, and legislation made by the UK parliament. 3 The challenge for lawmakers is to ensure that 4 legislation designed to protect children is in fact 5 effective. This inquiry in other sessions may have 6 formed the impression that sometimes parliament's will 7 is frustrated and so care needs to be exercised, it is 8 submitted, in drafting any recommendations. Much has 9 been said about mandatory reporting, and legitimate 10 questions are asked about how effective such a law might 11 be. 12 It is submitted that such a law would be no panacea, 13 but that is to mistake its purpose and roll in child 14 protection. Its effectiveness lies in ensuring that 15 those who work with children or are somehow responsible 16 for their welfare have a personal responsibility and not 17 just a moral one. To put it another way, those in 18 positions of responsibility know that the buck 19 ultimately stops with them. 20 The late President Truman had on his desk a sign 21 that said: "The buck stops here". It may be that those 22 in positions of authority in the Catholic Church should 23 have a similar sign on their desk. 24 The whole purpose is, to help those to avoid falling 25 into the traps of wilful blindness, there has to be</p> <p style="text-align: center;">Page 121</p>	<p>1 a position where they know that there has to be 2 reporting, and to assist you, you might want to look at 3 a law that's been introduced in the state of Victoria 4 where there is now an offence of failure to protect. 5 I will send in writing the full set, but basically 6 this says that the offence applies where there is 7 a substantial risk that a child under the age of 16 who 8 is under the care, supervision or authority of 9 the relevant organisation will become a victim of 10 a sexual offence committed by an adult associated with 11 that organisation; a person in a position of authority 12 in the organisation will commit the offence if they know 13 the risk of abuse and have the power or responsibility 14 to reduce or remove the risk but negligently fail to do 15 so. 16 This is wide ranging in scope and envisages, it is 17 submitted, complex structural organisations, such as 18 what you have been hearing about this week, and where it 19 is difficult to follow the line of accountability. 20 There can be no shifting. 21 If you have got your position of authority, you are 22 going to be responsible, and that is where I think if 23 such a law had existed much of the grief, the sorrow, 24 that we have been hearing about could have been avoided, 25 and I commend to this inquiry serious consideration to</p> <p style="text-align: center;">Page 122</p>
<p>1 this piece of legislation and, as I have said, I will 2 send the full draft to you by email. Thank you. 3 THE CHAIR: Thank you, Mr Collins. This seems an 4 appropriate time to take perhaps a little earlier lunch 5 break, and we will return at 1.45. 6 (12.49 pm) 7 (The short adjournment) 8 (1.48 pm) 9 THE CHAIR: Ms Henke? 10 Closing statement by MS HENKE 11 MS HENKE: Chair, members of the panel, thank you for this 12 opportunity to make a brief closing statement. We take 13 our engagement with this process extraordinarily 14 seriously, and in due course, we will make full written 15 submissions, and so, if I may, in closing, concentrate 16 on a number of matters that we say are pertinent. 17 Firstly, and foremostly, may I pick up where 18 I opened the case on behalf of the two institutions 19 I represent, both Ealing Abbey and St Benedict's School, 20 I said on their behalf in opening that we will never 21 stop saying sorry and, given the significant harm that 22 has been caused and which you have heard about, how can 23 anyone who takes responsibility for what has happened 24 ever stop saying sorry? 25 I again make a true and heartfelt apology. We have</p> <p style="text-align: center;">Page 123</p>	<p>1 not sought to shirk our responsibility. I opened and 2 accepted our failings, and there is nothing that I now 3 say in closing that is intended to minimise, mitigate or 4 in any way excuse or explain away what has happened in 5 the past. 6 We accept that the evidence of Abbot Martin, as he 7 then was, brought those failings into stark and evident 8 relief. He, himself, has taken responsibility and, 9 madam chair, at this juncture, may I read an apology 10 from him in person. He says this: 11 "It is not now for me to speak for the abbey, but 12 for myself. I wish to express my profound sorrow for my 13 mistakes, for my failure to properly manage potential 14 offenders. I apologise unreservedly to all those I have 15 let down: my brethren, St Benedict's School, the wider 16 Ealing community, those who might look to the church to 17 be simply much better than I have been, but, above all, 18 to all those who have been abused and hurt by monks and 19 have not been sufficiently protected." 20 Thank you for that opportunity. It needed to be 21 said. 22 We are not going to set out our failings orally. We 23 will do so in writing. Because we do acknowledge that 24 apology itself is empty unless we frankly stare those 25 failings in their face.</p> <p style="text-align: center;">Page 124</p>

<p>1 But what we do say is that, having engaged in this 2 process, and putting the welfare and well-being of 3 children at the forefront, we ask you not to let the 4 long, dark shadow of our failings provide the cover for 5 others to shirk their responsibility. We take the view 6 that safeguarding is everyone's responsibility. 7 And you have heard from others of the failings of 8 the statutory authorities, and you will come to your 9 determination upon them. 10 This is not about minimising, making sure that those 11 I represent aren't scapegoating; this is about making 12 sure that those shadows do not provide the depth in 13 which others who must take responsibility can hide. 14 As I said in opening, we have learnt from our past 15 mistakes as institutions, and the institutions 16 I represent today in my closing address before you are 17 the institutions as they are today. We say that you can 18 learn not simply from the mistakes, but it is also good 19 practice to learn from the positives and from good 20 practice itself. What was the significant positive? We 21 say it was the commissioning of the Carlile Report 22 in July 2010 when, when you look at the evidence, you 23 may think we were between a rock and a hard place, but 24 when we did the right thing. And that should be 25 acknowledged. Because that results in a report that</p> <p style="text-align: center;">Page 125</p>	<p>1 brings about fundamental and significant change. 2 On behalf of those I represent, I know that the 3 independence of the report is put into question. So, in 4 closing, may I say this: firstly, the report is by an 5 expert. It is commissioned by the abbey. But I ask: 6 how is that different from any singly instructed expert 7 in any family or civil court throughout this land? We 8 say no different whatsoever. Where does the integrity 9 of the expert come from? From their professionalism, 10 from their independence and from how they exercise it 11 without fear and favour. 12 We say, in relation to Lord Carlile, there can be 13 absolutely no doubt that he has been independent. 14 You will note -- and time won't allow me to take you 15 to the reference -- from paragraph 8 of his report that 16 he only agreed to the Commission on the basis that his 17 subsequent report would be published. Why do 18 I emphasise that in closing? Because that is the 19 evidence before you and because we recognise that the 20 greatest scrutiny, the greatest way to bring about 21 accountability, is transparency. 22 He was accountable ultimately to the public, who 23 could scrutinise it. You have heard criticism of 24 the five principles in paragraph 27 of his report. I, 25 on behalf of those I represent, ask you to scrutinise</p> <p style="text-align: center;">Page 126</p>
<p>1 those five principles. What we haven't been told by 2 a question put, let alone evidence given, is what's 3 wrong with them. They are objectively reasonable. They 4 are what others have really asked you to bring about, 5 because that's what they do bring about: root-and-branch 6 fundamental change, a change in governance making there 7 a total separation between church and school. 8 If there was in your mind any doubt of 9 the independence of the reporter, can I take you to 10 paragraph 28 -- and I won't again turn it up here -- 11 where it is quite clear that he sets out what the abbey 12 wanted to hear and he very starkly says, "I do not 13 agree", and he recommends total separation. 14 Learning from the positives is important, and, 15 sadly, because of want of time, you haven't been able to 16 hear from the current headmaster. I know you have his 17 statement, but may I, in closing, make two points in 18 relation to the school: it is now a model of excellence. 19 Its composition, in terms of the governing body, is as 20 I gave you in opening: 15 governors, three monks, no 21 possibility of anything other than a lay majority, two 22 head teachers, both from the independent sector and both 23 from schools that have no connection with St Benedict's 24 or the Benedictine Order whatsoever, diverse governance, 25 including some non-Catholics.</p> <p style="text-align: center;">Page 127</p>	<p>1 You have in your papers, the reference being 2 BNT007148, the safeguarding audit report commissioned by 3 the school by the new head when he took up post and 4 reporting in January 2017, and can I, in closing, 5 emphasise the positives: "Arrangements for the 6 governance of safeguarding are robust", is the headline: 7 "Alongside the school's safeguarding committee, an 8 experienced and well-informed governing body adopts 9 a best practice approach to safeguarding. This helps to 10 ensure that the right things have been put in place and 11 will remain in place and that staff are well supported, 12 challenged and held to account." 13 Headline: "Staff are knowledgeable and well 14 trained": 15 "All staff have received appropriate safeguarding 16 training. Policies and procedures are in place and 17 staff know what to do if they are worried or have 18 concerns." 19 You will note there a very low threshold, and you 20 may think that's appropriate. 21 They are also clear about the options and actions to 22 be taken in the event that a concern needs to be raised 23 with someone outside the school. 24 Headline 3: "There is evidence of strong 25 safeguarding ethos and commitment":</p> <p style="text-align: center;">Page 128</p>

<p>1 "This independent audit found evidence of 2 significant investment in safeguarding and pastoral 3 systems across the school. For example, a new and 4 comprehensive recording system has been put in place and 5 mechanisms for monitoring and ensuring the safe use of 6 technologies are described as impressive." 7 You will know that children are taught about being 8 kept safe and keeping themselves safe. 9 The conclusions are that no school can eliminate the 10 possibility of abuse entirely. However, St Benedict's 11 is doing more than it is required to do to safeguard and 12 promote the welfare of its pupils. In some crucial 13 aspects, its practice is either best or fast approaching 14 it. 15 Thank you for giving me to time to read that to you, 16 because we do learn from best practice, and posing 17 problems is one matter. One might say, if you look, for 18 example, at the Extraordinary Visitation of 2010, it 19 left by posing a problem not giving a solution. What we 20 need is solutions. Best practice actually provides 21 solutions and the total separation of the school from 22 the monastery, we respectively say, is best practice. 23 It is a model now for some to achieve. We have got 24 there by a route that is circuitous, that has been 25 protracted. As the school and the abbey acknowledge,</p> <p style="text-align: center;">Page 129</p>	<p>1 the past is shameful. We don't flinch from that. But 2 you stare your past directly in the face. You identify 3 the problem and then you find a solution. And by 4 implementing that report, we respectfully submit that is 5 what we have done. Thank you very much. 6 THE CHAIR: Thank you, Ms Henke. Ms Gallafent? 7 Closing statement by MS GALLAFENT 8 MS GALLAFENT: Thank you. Chair and members of the panel, 9 good afternoon. I cannot improve upon the words of 10 the Abbot President which will be fresh in your minds 11 from this morning's evidence. I therefore don't intend 12 to repeat either what he said to the panel today or what 13 he set out in his detailed witness statement. We will 14 of course address the details of the issues pertaining 15 to the EBC as distinct from its constituent monasteries 16 in due course in writing. 17 In the meantime, in response to the closing 18 statements of the other core participants, I would like 19 to note briefly four points. 20 The first is that the Abbot President's evidence is 21 not just aspirational or future looking. He has 22 described actual concrete steps that he has taken, 23 together with the superiors of the monasteries, to 24 improve safeguarding and the creation of safe spaces for 25 children in the abbeys and schools.</p> <p style="text-align: center;">Page 130</p>
<p>1 Secondly, the EBC agrees that in considering 2 appropriate recommendations, it is important for this 3 panel to take into account the views of other statutory 4 and governmental organisations on issues such as 5 mandatory reporting and potential redress schemes, as 6 well, of course, as the views of victims and survivors. 7 The EBC also considers that recommendations on these 8 types of issues, which are not limited to the particular 9 institutions in any case study or even in any particular 10 investigative strand, should more appropriately be made 11 once the inquiry has heard all relevant evidence on the 12 issues, not just in this or any other case study. 13 Reference has also been made, again, to the 14 relevance of Canon law and the Rule of St Benedict. 15 I won't repeat some of the submissions previously made 16 in that context, but just to note, of course, those are 17 starting points and they are supplemented and developed 18 in the context of the EBC by the constitutions, and that 19 is essential to remember. 20 The second point is that witnesses, both in the EBC 21 case study and also in the Birmingham case study, have 22 made emphatically clear that Canon law is not the be-all 23 and end-all. The church and its members are subject to 24 both civil and criminal law at a national level as well 25 as the national church safeguarding policies applied and</p> <p style="text-align: center;">Page 131</p>	<p>1 adopted in dioceses and religious organisations. 2 Thirdly, of course, the issue of Canon law more 3 generally and potential amendments or revisions that 4 could be considered to be made to it is one that we 5 understand will be considered at the forthcoming generic 6 hearing, no doubt with the detailed analysis and due 7 care that the subject merits. 8 The fourth point is that it's suggested that the 9 people that matter are the ones who remain in charge. 10 Well, the panel has heard directly from the 11 Abbot President this morning. You will reach, of 12 course, your own views on his insight and commitment. 13 Secondly, the panel has received updating witness 14 statements from those at Downside, for whom I also 15 appear, currently in charge of the abbey and the school 16 there, and those set out in detail recent, extremely 17 positive developments, all of which have been, and are, 18 subject to continual oversight by the Charity Commission 19 and the ISI respectively. 20 As the Abbot President recognised, the process of 21 this inquiry is both painful and helpful. He made 22 unambiguously clear his wish to continue to assist and 23 work together with this inquiry -- "in dialogue", as he 24 put it. Equally, as demonstrated this week, the 25 Catholic Council more generally remains fully committed</p> <p style="text-align: center;">Page 132</p>

<p>1 to assisting the inquiry, particularly in preparation 2 for the forthcoming hearing later this year. 3 We are all grateful for the opportunity of making 4 this short, particularly attractively short, closing 5 statement today. Thank you all. 6 THE CHAIR: Thank you, Ms Gallafent. Mr Wolfe? 7 Closing statement by MR LAWSON 8 MR LAWSON: Madam, good afternoon. I, in fact, am appearing 9 instead of Mr Wolfe this afternoon on behalf of 10 the Independent Schools Inspectorate and I am grateful 11 on their behalf for this opportunity of making brief 12 observations in closing. 13 As part of that, I will signpost some of the things 14 we will flesh out in writing by 22 February in a full 15 closing and then develop further as the inquiry 16 progresses over the forthcoming hearings. 17 As for where things have reached so far, we hope we 18 have now set out sufficiently the role of ISI and its 19 inspectors as determined by the legal framework for any 20 particular time. We have set out detailed accounts of 21 ISI's work alongside other agencies. Most directly, 22 that means ISI inspecting schools against standards made 23 by the Secretary of State to inform her or him as 24 regulator in setting those standards or in taking 25 regulatory action against schools.</p> <p style="text-align: center;">Page 133</p>	<p>1 But the wider picture also includes the police, as 2 of course the primary investigators of crime; local 3 authorities with their powers of inquiry and action to 4 keep children safe; and the Charity Commission. 5 We hope that you will also have sufficient 6 information about how ISI has developed and refined its 7 processes over the years since its approval for 8 statutory inspection in 2003. In that regard, I would 9 like, again, to reassure the survivors and victims from 10 St Benedict's, and from all schools, that ISI is 11 listening and learning from their evidence and from 12 their perspective. ISI continually reflects on how to 13 strengthen its practices, processes and guidance, as 14 I will set out towards the end of this submission. The 15 welfare of children is at the heart of all of the work 16 of ISI. 17 In terms of the evidence received this week, we hope 18 that the inquiry has been assisted by the following, 19 amongst other things: first, the detailed, thorough, 20 contemporaneous notes made by ISI inspectors, including 21 in particular in 2009 and 2010; second, the clear and 22 robust judgments and recommendations made by ISI 23 inspectors about St Benedict's, albeit based, of course, 24 in 2009 on the incomplete information then available. 25 The ISI inspection of 2010 was the first public</p> <p style="text-align: center;">Page 134</p>
<p>1 report which tried to piece together the whole picture 2 of occurrences and put that information into the public 3 domain. 4 Third, the evidence of long-term co-operation 5 between the Department for Education and the Independent 6 Schools Inspectorate and the persistence in monitoring 7 the school over a number of years once difficulties were 8 known. 9 Fourth, the active steps taken by ISI and the 10 Department for Education to improve the school's 11 safeguarding beyond minimum compliance. 12 The evidence bases, when you have the time to review 13 them in more detail, are examples of the scale and range 14 of detailed issues and regulations that inspectors must 15 cover on a routine inspection in a short period of time. 16 You set out in your report on Ampleforth and 17 Downside the extent of those regulations, which we 18 addressed you on before. Although those evidence bases 19 are of their time, the methods of recording have of 20 course developed in the last 10 years, they may assist 21 the inquiry in a future strand when it comes to consider 22 the adequacy of regulation and inspection and ISI will 23 welcome the opportunity at that time to show how 24 inspection is approached today. 25 There have been many developments in inspectorate</p> <p style="text-align: center;">Page 135</p>	<p>1 procedures over the last ten years. They reflect, of 2 course, changes to the independent school standards and 3 national guidance by the regulator. The detailed 4 statement of Kate Richards, the current chief inspector, 5 which I believe the inquiry has arranged to be 6 published, explains the inspections at St Benedict's and 7 the detailed follow-up work after 2009. 8 But it also tries to set out those changes to 9 practice and procedure and to reflect on possible 10 further reforms in the light of experience and the 11 learning from this inquiry. 12 When the inquiry comes to assess what happened with 13 the 2009 inspection and beyond, we would ask the inquiry 14 to have the following things particularly in mind: 15 first, that ISI inspections must inevitably be seen in 16 the context that much of the actual abuse at 17 St Benedict's had taken place before the 1990s, when 18 neither ISI nor Ofsted existed; second, that in 2009, 19 the police, the Charity Commission and the local 20 authority had information relevant to the work of 21 inspection, but the systems in place at that time didn't 22 lead to it being passed to the ISI or the DfE; third, as 23 can be seen from the notes of the ISI inspectors in 24 2009, the inspectors were told of only one convicted 25 perpetrator of child abuse at St Benedict's since</p> <p style="text-align: center;">Page 136</p>

<p>1 Mr Cleugh's arrival in January 2002, and one person of 2 possible concern. The picture they got from the school 3 was by no means the whole picture. We say that taking 4 into account the email from March 2019 to which 5 Mr Cleugh referred today and which, as Ms Karmy-Jones 6 says, was only before the inquiry. Our closing note to 7 be submitted by 22 February will set out the 8 minimisation which took place.</p> <p>9 Those two things, the information with other bodies 10 and the minimisation from the school, materially 11 undermined the ISI inspection team in reporting on 12 St Benedict's in 2009.</p> <p>13 It is a matter of regret that the team didn't have 14 the information we would all like them to have had. But 15 as soon as the deficiency in that report was known, it 16 was withdrawn, and a new inspection was commissioned.</p> <p>17 Fourth of the matters I have asked you to take into 18 account, ISI has been criticised for not rejecting the 19 SBS child protection policy in 2009.</p> <p>20 We accept that the flaws in that policy should have 21 been identified in 2009. In our written closing, again, 22 we will set out the context in which that happened, 23 which we would ask you to take into account, and I won't 24 divert into now for reasons of time, and, importantly, 25 the systemic changes which have taken place since.</p> <p style="text-align: center;">Page 137</p>	<p>1 Fifth, legislation requires inspection reports to 2 address how a school meets the standards at the time of 3 the inspection. Information about concerns which have 4 arisen prior to the last inspection provides context for 5 the inspection but does not impact directly on the 6 judgments made.</p> <p>7 With all that in mind, can I end by mentioning some 8 of the areas to which ISI will be giving further thought 9 in the light of the matters raised this week.</p> <p>10 Before listing them, I should like, of course, to 11 make clear that none of these are issues for ISI alone; 12 they are national issues, primarily for the 13 Secretary of State as regulator, and of course many may 14 be taken up by this inquiry. In that context, ISI's 15 current thinking is as follows.</p> <p>16 First, the potential role for a formal duty of 17 candour by schools to inspectors and to the regulator. 18 That could either stand alone or it could sit alongside 19 a duty of mandatory reporting which is advocated by 20 other groups before you today.</p> <p>21 Second, as part of encouraging candour, whether 22 appropriate consequences should be introduced for 23 schools and individuals where it emerges there has been 24 a lack of candour.</p> <p>25 Third, the sharing of relevant information by other</p> <p style="text-align: center;">Page 138</p>
<p>1 agencies with ISI, both in general and in particular in 2 the run-up to an inspection.</p> <p>3 Fourth, the need for regulation of safeguarding 4 training.</p> <p>5 Fifth, whether, despite the progress made, there 6 remains a need for further simplification and 7 streamlining of safeguarding guidance for schools. Two 8 suggestions relevant to that are as follows: it might 9 mean, in relation to the multiple reporting requirements 10 which already exist to various bodies, the provision of 11 a more simplified, as put in Ms Richards' statement, the 12 "tell us once" system; and, secondly, the potential 13 provision of a template child protection policy.</p> <p>14 That leads me on to the sixth point, which is, you 15 will have seen from the written material before you that 16 safeguarding requirements are presently framed within 17 guidance to which schools must have regard when they 18 formulate their own policies, and this means, of course, 19 that ISI inspectors may properly find policies compliant 20 even if others might contest their appropriateness, and 21 that might be -- the nature of that duty might be one 22 which could be considered either by the inquiry and 23 which we are considering.</p> <p>24 Seventh and finally, we have of course heard about 25 the regulation of schools which are closely linked to</p> <p style="text-align: center;">Page 139</p>	<p>1 other organisations, here the monastery, and we have 2 raised with you before, and are continuing to consider, 3 the implications that this has for the inspection and 4 reform of governance arrangements within schools.</p> <p>5 As I say, we will return to those things in more 6 detail in writing later to the inquiry as we continue 7 that process, which I mentioned in opening, of listening 8 and learning to the inquiry process. Thank you.</p> <p>9 THE CHAIR: Thank you. Ms Leek?</p> <p>10 Closing statement by MS LEEK</p> <p>11 MS LEEK: Chair, members of the panel, in the short time 12 available, we address four discrete matters which arise 13 from the evidence which you have heard about the actions 14 taken by the Metropolitan Police Service.</p> <p>15 First, the number of allegations made to the MPS and 16 what was done in response to those allegations. The 17 inquiry heard evidence about the allegations received by 18 the MPS as summarised in an exhibit to 19 Commander Jerome's statement. There was a limit to the 20 detail which could be explored during the course of his 21 evidence regarding the receipt, investigation and 22 disposal of those complaints.</p> <p>23 Commander Jerome accepted, however, that when those 24 allegations are looked at in their totality and when 25 looking through the detail of the allegations, the MPS</p> <p style="text-align: center;">Page 140</p>

<p>1 could have done much better at drawing the links or 2 joining the dots between the allegations. However, he 3 also pointed out that there are examples of officers 4 making connections between allegations and those 5 received earlier in time.</p> <p>6 It is wrong to reduce the many individuals who have 7 been subjected to the most horrific abuse to statistics. 8 However, it is important to put the fact of the 66 9 allegations into some context, particularly because 10 those following these proceedings may have formed 11 a misleading impression of when those allegations were 12 made and what they disclosed.</p> <p>13 What can be said is, first of all, of the 66 14 allegations, 28 resulted in charges, with convictions in 15 respect of six individuals; six were referred to the 16 CPS, who advised no further action; and two were 17 transferred to other, more geographically appropriate, 18 police forces to investigate. Half of the allegations 19 were made after the 2011 trial of Pearce and Maestri, 20 which concluded in July 2011. That received 21 a substantial amount of publicity and further 22 complainants then came forward. Of course that was also 23 around the time of Lord Carlile's report.</p> <p>24 Of the 33 allegations which were made before the 25 2011 trial, 25 were either charged or referred to the</p> <p style="text-align: center;">Page 141</p>	<p>1 CPS, who advised no further action. Of those which were 2 not referred to the CPS and/or charged, there was 3 a variety of reasons for the decision by the police to 4 take no further action, including that they related to 5 corporal punishment, which was not a crime at the time, 6 and that the alleged perpetrators were unnamed or could 7 not be identified. Only one allegation concerned an 8 allegation of abuse taking place after the mid 1990s.</p> <p>9 Chair, in citing those figures, we do not intend in 10 any way to minimise the experiences of any of 11 the victims; simply to put them in context from 12 a policing perspective. And we ask you to look at the 13 response to each individual allegation when making your 14 report.</p> <p>15 We wish to pay particular tribute to A8, whose 16 evidence to this inquiry was both powerful and deeply 17 moving. On behalf of the Commissioner and the officers 18 of Winter Key, we wish to thank him and all those who 19 have given evidence in the various trials against the 20 perpetrators of abuse at St Benedict's.</p> <p>21 Second, liaison with other statutory bodies for the 22 purposes of safeguarding. The inquiry has been read the 23 accounts of various police officers who were involved in 24 investigating the allegations received by the 25 Metropolitan Police Service. In their accounts, they</p> <p style="text-align: center;">Page 142</p>
<p>1 refer to some of their interactions with Ealing 2 Social Services. We submit that, when dealing with 3 concerns for the safety of children, the principal 4 statutory agency with whom the police would, and should, 5 be expected to liaise would be the local authority. The 6 inquiry has also heard evidence from Peter Turner as to 7 the interactions he had with various police officers and 8 thereafter with other organisations. Those contacts are 9 evidenced within the contemporaneous CRIS records, some 10 of which have been examined during the evidence.</p> <p>11 We would also like to refer the panel to the 12 statement of Carolyn Fair, the director of children 13 services at Ealing Council, which has not been read but 14 is at INQ003706. She explains that a number of strategy 15 meetings took place. Those are evidenced in the records 16 which have been disclosed. However, as she explains in 17 her statement, the records retained by Ealing Council 18 are incomplete.</p> <p>19 What is clear from the records is that, for example, 20 following A621's allegation in January 2008 against 21 David Pearce, there were two multi-agency strategy 22 meetings that same month and in February 2008. Those 23 meetings were attended by representatives of the Social 24 Services Department, the police and Mr Turner. The 25 meetings confirm that a section 47 investigation was</p> <p style="text-align: center;">Page 143</p>	<p>1 being undertaken by the local authority. It also 2 recorded that Mr Turner undertook to pursue the process 3 of referring Pearce to the PoCA list, which we take to 4 mean the Protection of Children Act 1989 list, of 5 individuals who were considered unsuitable to work with 6 children.</p> <p>7 Finally, on the question of liaison with others, we 8 invite you to note the penultimate column of exhibit NJ1 9 to Commander Jerome's statement which sets out the other 10 institutions with which the investigating officers had 11 contact.</p> <p>12 Third, the response to A6's civil case. The inquiry 13 has rightly asked what was done by the Metropolitan 14 Police Service following the judgment of 15 Mr Justice Field in the civil claim brought by A6. The 16 evidence suggests that the MPS was not aware of 17 the judgment. The fact of the judgment does not appear 18 to have been communicated to the police by any of 19 the parties to the proceedings, their legal advisers or 20 the court itself. That is unfortunate, and may have 21 been a missed opportunity to reconsider A6's case.</p> <p>22 The inquiry may wish to consider whether formal 23 guidance should be provided to the civil courts as to 24 whether referrals should be made to police forces where 25 new evidence emerges or factual findings are made during</p> <p style="text-align: center;">Page 144</p>

1 the course of civil litigation.
 2 Fourth, may I address you briefly on the decision to
 3 grant Laurence Soper bail and the conditions of that
 4 bail. When considering the bail situation, we would
 5 like to make one factual clarification and one
 6 observation: during counsel's questioning of
 7 Commander Jerome, she said as a preparatory remark to
 8 a question, "The Metropolitan Police officers involved
 9 in Soper's arrest and his release on bail on the last
 10 occasion, and indeed earlier occasions, did not
 11 photograph him or fingerprint him and to verify his name
 12 and true age before permitting him to leave the
 13 United Kingdom and return to the Vatican". That is not
 14 entirely accurate.
 15 As the Metropolitan Police solicitor explained in an
 16 email to the solicitor to the inquiry, Soper was
 17 photographed and fingerprinted on 22 September 2010.
 18 His DNA was not taken at that time, as it had been taken
 19 previously and had been confirmed. In those
 20 circumstances, it was unnecessary and it would have been
 21 inappropriate to take a further DNA sample.
 22 And this observation: on 22 September 2010, Soper
 23 was released on conditional bail. The grant of bail was
 24 subject to one condition, that he was not to have any
 25 unsupervised contact with any child under the age of

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1 all of the lessons that need to be learned and welcome
 2 recommendations from the panel.
 3 The Metropolitan Police Service is committed to
 4 bringing more perpetrators to justice and to taking all
 5 possible steps to ensure that the horrors described
 6 cannot ever be repeated.
 7 THE CHAIR: Thank you, Ms Leek. Ms Griffiths?
 8 MR KING: It is Mr King, chair. I don't propose to advance
 9 any submissions today on behalf of Adrian Child or
 10 Eileen Shearer. However, written submissions will be
 11 advanced and provided in due course. Thank you very
 12 much.
 13 THE CHAIR: Thank you. Mr Kelly?
 14 MR KELLY: Thank you, chair. I don't wish to make any oral
 15 closing submissions. We will, however, make short
 16 written submissions in due course. Thank you very much.
 17 THE CHAIR: Thank you, Mr Kelly. I understand that that is
 18 the last of the closing statements that we have been
 19 notified of? Ms Karmy-Jones?
 20 MS KARMY-JONES: Yes, and so that concludes the matters for
 21 today. We have already heard that some core
 22 participants will be providing written submissions. You
 23 may wish to say now that the deadline for doing so will
 24 be 22 February.
 25 THE CHAIR: Indeed. Thank you. I do confirm that

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1 18 years. It was not a condition of his bail that he
 2 surrender his passport.
 3 A decision as to bail conditions would have been
 4 taken by the custody officer in accordance with the
 5 Police and Criminal Evidence Act 1984: in particular,
 6 section 37. As read in accordance with section 3(a) of
 7 the Bail Act.
 8 The difficulty is that Soper was not identified as
 9 being a flight risk. He had returned to the UK
 10 voluntarily on at least two previous occasions, knowing
 11 that he faced serious criminal allegations. It was
 12 known that Soper both lived and worked in Rome.
 13 If his passport had been removed from him, he would
 14 have been unable to leave the UK for work purposes for,
 15 as it turned out, a further six months while the
 16 investigation progressed.
 17 Finally, the officers who have attended the hearing
 18 this week have been struck by the written and oral
 19 accounts of the survivors of sexual abuse at the hands
 20 of those in whose care they were placed and whom they
 21 should have been able to trust. We echo and endorse
 22 Mr Khan's reference to their courage and to their
 23 resilience.
 24 The officers want the panel and the survivors to
 25 know that they are not complacent about having learned

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1 date, February 22.
 2 Closing remarks by THE CHAIR
 3 THE CHAIR: On behalf of the inquiry, may I thank you all
 4 for your attendance this week. We are grateful to all
 5 of the witnesses who have come to testify and look
 6 forward to reviewing the evidence we have heard and
 7 considering all of the helpful submissions that have
 8 been made.
 9 We would also like to extend our thanks to all of
 10 the representatives here and to all of the inquiry staff
 11 for ensuring the smooth progress of the hearings into
 12 this case study.
 13 The inquiry anticipates that the report into this
 14 case study will be published this autumn and, with that,
 15 I will draw the hearing to a close. Thank you very
 16 much.
 17 (2.25 pm)
 18 (The hearing concluded)
 19
 20
 21 I N D E X
 22
 23 Housekeeping1
 24
 25 MR CHRISTOPHER JOSEPH CLEUGH2

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<p>1 (continued)</p> <p>2</p> <p>3 Examination by MS KARMY-JONES (continued)2</p> <p>4</p> <p>5 MS SHARON MICHELLE RUSSELL20</p> <p>6 (affirmed)</p> <p>7</p> <p>8 Examination by MR DONMALL20</p> <p>9</p> <p>10 DOM PETER CHRISTOPHER JAMISON62</p> <p>11 (sworn)</p> <p>12</p> <p>13 Examination by MS KARMY-JONES62</p> <p>14</p> <p>15 Statement of WITNESS RC-A622 (read)83</p> <p>16</p> <p>17 Closing statement by MR O'DONNELL88</p> <p>18</p> <p>19 Closing statement by MR KHAN96</p> <p>20</p> <p>21 Closing statement by MR JACOBS104</p> <p>22</p> <p>23 Closing statement by MR CHAPMAN111</p> <p>24</p> <p>25 Closing statement by MR COLLINS116</p> <p style="text-align: center;">Page 149</p>	<p>1</p> <p>2 Closing statement by MS HENKE123</p> <p>3</p> <p>4 Closing statement by MS GALLAFENT130</p> <p>5</p> <p>6 Closing statement by MR LAWSON133</p> <p>7</p> <p>8 Closing statement by MS LEEK140</p> <p>9</p> <p>10 Closing remarks by THE CHAIR148</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 150</p>
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