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HISTORICAL INSTITUTIONAL ABUSE INQUIRY
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being heard before:

SIR ANTHONY HART (Chairman)

MR DAVID LANE

MS GERALDINE DOHERTY

held at

Banbridge Court House

Banbridge

on Wednesday, 9th December 2015

commencing at 10.00 am

(Day 167)

MS CHRISTINE SMITH, QC and MR JOSEPH AIKEN appeared as
Counsel to the Inquiry.

1 Wednesday, 9th December 2015

2 (10.00 am)

3 Opening submissions on Module 8

4 by COUNSEL TO THE INQUIRY (cont.)

5 CHAIRMAN: Good morning, ladies and gentlemen. Can I remind
6 everyone to ensure that if they have a mobile phone, it
7 has either been turned off or placed on
8 "Silent"/"Vibrate" and also to remind you all that
9 photography is not permitted either in the chamber or
10 anywhere on the Inquiry premises.

11 Yes, Mr Aiken.

12 MR AIKEN: Chairman, Members of the Panel, good morning.

13 I am going to continue with the opening this morning and
14 we will begin hearing witnesses tomorrow. The path that
15 I am going to follow today is detailed and some of the
16 documents will be difficult to read because of their
17 historical nature, but I trust that looking at them will
18 be something that the Panel will find useful, given the
19 complexity of the story that has been unfolding.

20 I began last evening very briefly looking at the
21 Macedon Inquiry, as I have named it, the police
22 investigation that resulted in the criminal trial in
23 2004 and the Court of Appeal quashing of the verdicts in
24 2005. It is that subject that I am going to begin with
25 this morning. It will take me some time to move through

1 this story, because of its complicated nature, but
2 I hope it will be helpful to the Panel as these issues
3 are reflected on over the next -- the rest of this week
4 and next week.

5 The police investigation took place in earnest in
6 2000 and 2001. As I mentioned yesterday, it is
7 contained in police file C6419/01, which runs from
8 BAR-4001 to 6746 in the bundle, and it has within it
9 a very detailed police report from the investigating
10 officer, Detective Constable Boyce. It runs to
11 120 pages. That can be found at 4234 to 4354. It
12 explains that after some delay police statements that
13 had been made by HIA101 and BAR47, and we looked at
14 those briefly last evening, from the summer of 1998
15 caused the police investigation then to be reviewed and
16 recommenced.

17 The police investigation that took place ultimately
18 produced allegations against four individuals: BAR1,
19 BAR2, BAR3 and BAR52. As I indicated last evening, the
20 police decided to concentrate on the period 1st December
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1 during those dates that BAR1 spanned. The issue of
2 BAR52 I will deal with discretely. He was in Macedon
3 briefly in to

4 Before I go on to explain what occurred during the
5 investigation I want to set out some of the evidence
6 that's available to the Panel about the four individuals
7 who were the main focus of the Macedon Inquiry and the
8 systems issues that the Panel may consider arise from
9 that material.

10 I am going to begin by looking at BAR1. Just for
11 context, ultimately of the twelve individuals who would
12 make allegations during the Macedon Inquiry, ten of them
13 would make allegations against BAR1 in police
14 statements. That ten are made up of nine ex-residents
15 , and we will come
16 to look at some of that in more detail in due course.

17 In that context BAR1 was born on and
18 from the police statement of **BAR 76** made as
19 part of the Macedon Inquiry of 22nd November of 2000 --

20 was a member of staff who worked with BAR1 in
21 Macedon, and we will look at statement in
22 a different context later -- but explained in that
23 statement that BAR1 and had met at Rupert Stanley
24 while each were doing a childcare course in

25 . The reference to that is in statement at

1 BAR-4578. We will come to see when we look at some of
2 the Barnardo's documents that they were aware that BAR1
3 held a qualification, which was one of the reasons for
4 accepting transfer over to Macedon from their
5 , which I will speak about shortly.

6 From that police statement of **BAR 76** of
7 November of 2000 one can also see that from around
8 explains that joined BAR1 at
9 , a
10 , where they worked together. The reference for
11 that is again at 4578. So BAR1 had, as we come to look
12 at involvement with Barnardo's, prior experience
13 working in childcare, having obtained a qualification
14 almost a decade before.

15 begins working for Barnardo's on
16 as a officer at in
17 Belfast on a six months' probation period. The
18 reference for that -- and if we just can bring this up,
19 please, BAR-5877. Now these documents are on microfiche
20 and therefore difficult to read. I have spent some time
21 working out what I understand they say. I am going to
22 go through them quite quickly in terms of describing
23 what they say, and then I am sure if any of the core
24 participants think I've mischaracterised any of them,
25 they will bring that to my attention and I will clarify

1 it again for you, but you can see this document is dated
2 It's a letter of appointment as
3 officer to the in
4 Belfast. The date of the commencement is

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Something that will be relevant for a number of documents if we look through the chronology of BAR1's time in Barnardo's is that was on a six months' probationary period. On each of the appointments probationary periods were involved. We see that being utilised to take steps in an employment context.

Now the next document that is available in the chronology is at 5879, please, if we can go to that. It is of . If we can rotate, and if my trustee operator will just rotate them all as I am speaking, so I will not ask each time, as that's necessary. This is a letter from the Barnardo's Personnel Manager confirming the decision that appointment at in Belfast would not be confirmed and last day of employment would be

Now at this point it is not possible -- there are no other documents that explain what was it about the time in that meant appointment was not being confirmed beyond the probationary period,

1 but you can see in the top right corner a Miss
2 Hutchinson. If I can ask you to note that name. She
3 appears at the time to have been the head of the
4 and her relevance will become apparent in
5 the next documents.

6 So that's , telling BAR1 that
7 employment isn't going to be confirmed in , but
8 then on , if we can look, please, at
9 5880 -- sorry. I mischaracterised Miss Hutchinson. She
10 was at the time the Assistant Divisional Director of
11 Childcare. [REDACTED] BAR111 in
12 due course. [REDACTED] if I can
13 put it like that. This is a letter referring to BAR1
14 having written a letter. So:

15 "BAR1 is due to terminate employment as
16 officer at on .
17 has written to our senior residential officer requesting
18 that be considered for a transfer to a post in
19 Macedon. In view of BAR1's long years of experience
20 with the older age group ..."

21 That may be the reference then to the
22 work:

23 "... and the fact that has a qualification it
24 has been decided that she be transferred to the post of
25 Residential Social worker Macedon as and from

1 ."

2 She encloses a particular document:

3 "BAR1 will be reviewed after the customary period of
4 probation in her new post."

5 Then reference is made to, "Will be issued with
6 a letter of appointment?" So that transfer is agreed.

7 The move to Macedon is to take place, and then the
8 letter of appointment -- if we look at

9 , if we look at 5881, please, the letter of
10 appointment refers to as having a post of

11 at Macedon. It is difficult to read, but
12 you can see:

13 "Probationary period: Six months.

14 Date of commencement:

15 The letter is dated in the top right

16 . So the commencement date was
17 working in Macedon.

18 There don't appear to be any other documents in the
19 personnel file that add to the story. You will recall

20 the documents with HIA101 and the wooden spoon
21 incident, but on , if we look at 5882,

22 please -- I will just allow you to read that document
23 for a moment, Members of the Panel. There is just one

24 matter I want to try and clarify. Yes. It was the

25 sequence of events. The incident over the wooden spoon

1 and punishing of HIA101 was in the early part of
2 The documents are from of . So
3 the meeting at the end where BAR24 met, having BAR14
4 being involved, where he met and spoke to the three
5 members of staff about the unacceptable behaviour was on
6 .

7 You can see that this letter of then
8 is confirming appointment to the post of ,
9 which effectively made BAR1 in
10 Macedon, if I have understood the role correctly, on --
11 as and from . So this promotion, as it
12 were, appears to have been shortly after the incident
13 involving the use of the wooden spoon.

14 Again the letter indicates that this post is subject
15 to a six monthly probation period, and we know that the
16 service moves from Macedon to Sharonmore on
17 . If I can highlight again, that is the date
18 when according to all of the individuals who made
19 allegations against BAR1 the abuse did not continue in
20 Sharonmore.

21 Then at , by which stage **BAR111** is
22 the **████████████████████**, an annual staff review
23 takes place in respect of BAR1. If we can look, please,
24 at 5884, this is his letter of . If
25 I can try to put in context, we are going look at

1 various statements from members of staff who, while
2 acknowledging her having a
3 having -- , but not
4 anything untoward beyond that, despite the nature of the
5 allegations that are made.

6 By this stage that -- if one takes it as per the
7 statements, all of that abuse has taken place and
8 stopped and we are now in Sharonmore, where it is not
9 continuing, and this review is taking place of BAR1. In
10 that context if I can ask you to bear in mind that the
11 people doing this work in terms of reviewing her
12 employment, they don't know at the point that this work
13 is being done any of the allegations that would
14 subsequently be made twenty years later.

15 So the comment that's made:

16 "I understand you are aware of the comments
17 contained in your most recent annual staff review and
18 addendum ..."

19 I don't have those documents:

20 "... the substance of which is that your
21 and ..."

22 Now that I understand is BAR36 and possibly BAR9:

23 "... have serious doubts as to your ability to
24 operate as an effective in the Ballyduff
25 group."

1 That was one of the Sharonmore groups. One was
2 Ballyduff and the other was Ravelston. Very quickly
3 because of numbers Ballyduff would close in any event
4 and there would just be Ravelston on the Sharonmore
5 site:

6 "I have discussed your review at some length with
7 both BAR36 and BAR 75 ..."

8 I think that's BAR36 and **BAR 75** . So it may be
9 he is the that's being referred to:

10 "... and agree with their conclusions. From the
11 evidence in this review it also seems to me that the
12 likelihood of your being able to operate at the required
13 level in the future is small.

14 In these circumstances I feel unable to recommend
15 that you be awarded an increment on 1st April next and,
16 as you know, I have made this recommendation with
17 BAR14's approval ..."

18 So at this point BAR14 is still
19 until later in :

20 "... to the national directors. They will consider
21 this in due course and advise you of their decision
22 through headquarters personnel in the near future.

23 I also feel you may be able to operate more
24 effectively and may also derive greater job satisfaction
25 from working as a basic grade residential social worker

1 and would suggest that you consider the possibility of
2 such a transfer. In those circumstances the post would,
3 of course, continue to be at Sharonmore and your salary
4 would be unchanged. Moreover, as a residential social
5 worker, your eventual maximum salary would be the top
6 point of scale 3 rather than the top point of scale 4 as
7 at present and eventually would have an effect on your
8 level of pension.

9 Perhaps you would consider this suggestion and let
10 me know whether you wish to accept it. If I do not hear
11 from you, I will assume that you would prefer to remain
12 as ."

13 So we don't have the review. We will be able in due
14 course to see BAR36 expressing what the problem was and
15 it -- if I can contextualise it at this point by saying
16 the problem was BAR1 being described as old school in
17 her methods, suitable for the old caring role, but not
18 the new progressive therapeutic role that Barnardo's
19 were wanting to introduce.

20 So there's the suggested demotion. There is the
21 withholding of the annual increment in terms of pay. On
22 -- and I am not going to go through all the
23 documents -- there was reference to a grievance
24 procedure. If I just show you 5888, please. If we just
25 turn that round, this is a letter from BAR1. It is

1 difficult to read, but there's reference to doing
2 another qualification you can see at the bottom and
3 asking about being given the opportunity of studying for
4 the CSS course, and also asking about the grievance
5 procedure, presumably in light of not being happy that
6 is not going get her pay increment.

7 The next document in the sequence, if we look,
8 please, at 5891, is a letter of
9 setting up a disciplinary hearing in respect of BAR1,
10 because of what is described as "unsatisfactory
11 performance". So one can take from the implication of
12 this document that BAR1 did not accept the demotion from
13 , and then reference is made:

14 "Further to our meeting of 1st March to discuss your
15 annual staff review, my letter of 10th March", which we
16 have looked at, "I understand from BAR36 that there has
17 been very little improvement in your performance in your
18 post as a at Sharonmore.

19 I am writing to confirm that it has been decided to
20 hold a disciplinary interview as part of the Barnardo's
21 disciplinary procedure in my room ...",

22 and the date is given for the meeting:

23 "The grounds upon which the disciplinary interview
24 is being held is inadequate performance of duties, ie:

25 Insufficient ability to accept an appropriate level

1 of responsibility in the absence of the group leader and
2 assistant group leader.

3 Insufficient ability to work with and control the
4 young people.

5 Inability to offer appropriate supervision and
6 support to junior staff."

7 So there's no suggestion in any of these documents
8 about incidents of abuse of any kind, physical, although
9 we are aware of the wooden spoon incident previously, or
10 anything of a sexual nature, but it is ability to
11 perform the role that Barnardo's were expecting of
12 in position as .

13 Then if we can look at 5893, please, we see the
14 letter of . The disciplinary hearing
15 appears to have been adjourned and a formal warning is
16 imposed. We can see:

17 "Within the next few days I shall in conjunction
18 with your project leader and group leader inform you of
19 the standard you are required to attain, the time limit
20 within which you will be expected to attain it and the
21 supervision and support which will be made available to
22 you."

23 So there is a problem with performance, but if I can
24 again draw your attention to the context of this, this
25 is in now in Sharonmore, where there are no allegations

1 from this period of time that are made of abuse against
2 BAR1.

3 The formal warning period you can see in the next
4 paragraph:

5 "The warning will expire after a period of one
6 year",

7 but giving notice that the length of the warning
8 may be extended.

9 Now six months later on , if we can
10 look at 5896, please, there is another letter which
11 again indicates a deferment of the annual increment, and
12 the reason for that was because of the fact she was
13 under what's described as the warning that year, if you
14 like, warning under the disciplinary procedure.

15 Now this appears to have prompted a letter of
16 resignation from BAR1 of . If we look,
17 please, at 5901, I appreciate it looks like a 4 next to
18 the 8, but I am reasonably certain it is a 3 for reasons
19 that will become apparent:

20 "I have tendered my resignation from Barnardo's as
21 I~have an opportunity to -- for another position. It
22 will -- it will not thought -- not therefore be
23 necessary for me to attend the hearing."

24 So it may be there was another disciplinary hearing
25 that was being envisaged:

1 "I would appreciate, however, personal discussion --
2 private discussion with you before I leave. I look
3 forward to hearing from you."

4 Now if we look then at 5904, there's a letter the
5 next day. You can see now why I say rather than 4,
6 because the stamp on this one is . At
7 this point **BAR 79** has become
8 . He became the in late
9 , in possibly, and he says:

10 "Dear BAR1,

11 I am writing to acknowledge receipt of your letter
12 dated 26th April in which you tendered your resignation
13 from your position with Barnardo's. I accept your
14 resignation and I am able to confirm that Barnardo's
15 will withdraw the disciplinary action which was to have
16 been taken. Therefore it will not be necessary for you
17 to attend the disciplinary hearing as arranged. I would
18 be grateful if you could telephone ...",

19 and so on. You can see that NIPSA were involved on
20 behalf as well.

21 Now it is not entirely clear what happens. BAR1 had
22 asked for a private word, and the next documents in the
23 sequence seem to be on , if we can look at
24 5895, please, there is a staff appraisal. If we can
25 maximise that, if that's possible. It is an extension

1 of the first written -- I am not sure if there is
2 anything else we can do that will make that bigger, blow
3 it up even more. Yes. I am grateful:

4 "Further to your interview on Thursday, 21st July
5 ..."

6 So the implication of this is, whatever happened,
7 the resignation didn't ultimately take effect and it is
8 again similar:

9 "... regarding the fact that there has been no
10 significant improvement in your ability to accept an
11 appropriate level of responsibility in the absence of
12 the group leader and assistant group leader and your
13 ability to work with and control the young people.

14 In consequence your annual staff appraisal reflected
15 this. I formally notify you in the circumstances that
16 the warning period of 12 months has been extended."

17 Then reference to further disciplinary action
18 following.

19 Then on -- and it seems to have
20 been as part of this disciplinary process -- if we can
21 look, please, at 5897, there is an appointment letter to
22 a post in . You can see it is dated

23 The post is to begin on and
24 again probationary period will commence. It's for 26
25 weeks. You can see in the third paragraph down of the

1 letter that the warning period was going to continue on
2 into the post in .

3 Then we know that on -- so BAR1
4 transfers to and begins working there, and
5 that was an -- that struck a child
6 with a slipper. We can see that at 070, please. If we
7 can just maximise the size of that page too, if that's
8 possible. So setting up a disciplinary hearing as part
9 of the Barnardo's disciplinary procedure, which is going
10 to take place on 1st May, and you can see that the
11 reasons are in number 1 they refer to:

12 "... the previous disciplinary interviews in
13 and , followed by a period of
14 intensive and supportive supervision by senior staff at
15 Sharonmore, and further our agreement to your request
16 for a transfer to . You have been unable to
17 achieve a satisfactory level of professional performance
18 in your caring functions at , Macedon,
19 Sharonmore and and that, contrary to
20 Barnardo's care and control policy, you hit a child at
21 with a slipper on ."

22 We will see that reference is made in paragraph 1 to
23 -- or number 1, the second paragraph down, to "
24 , Macedon, Sharonmore and ". That
25 prompts disquiet that we will see shortly.

1 The probationary period was extended again, if we
2 look at 5900, please, pending the disciplinary hearing
3 taking place, which was to be at the start of May. On
4 the probationary period was extended
5 again.

6 Then on BAR1 resigns in advance of the
7 disciplinary hearing completing. I don't have a copy of
8 that resignation letter that I am aware of, but if we
9 look at 5905, there is a meeting that takes place
10 between BAR1 and **BAR 79** , the ,
11 which is recorded, where he says, and if we can just
12 maximise that page again, please, as much as possible,
13 that:

14 "I met with BAR1 on at request,
15 following resignation from Barnardo's employment.
16 wanted an explanation as to why work at
17 was included in the letter relating to the
18 disciplinary procedure."

19 You will recall I drew your attention to that
20 reference:

21 "I went through with her the reports of the time in
22 and the kind of difficulties that was
23 experiencing in working with that particular age group.
24 I indicated to that if we were really considering
25 dismissal, which we were, then we would have been taking

1 all work into account. said that worked
2 hard and had a commitment to Barnardo's. I confirmed
3 that this is still the view, that is still a hard
4 worker and a committed worker, but difficulty has
5 been clearly not being able to undertake the
6 professional task that is now required.

7 I talked with about the whole change in
8 childcare and that should not feel depressed that
9 is not able to cope with the task, as is not
10 alone. I reassured that I was sure that a lot of
11 experiences with Barnardo's were positive and it was
12 certainly not our view that BAR1 was 'all bad'.
13 seemed relieved and satisfied with this reassurance, and
14 stated felt that a big burden had been lifted
15 from shoulders, as had been trying desperately
16 hard to cope with some of the difficult children.

17 I wished well in new post and indicated to
18 should she ever require a reference, although
19 I hoped new job would be rewarding to , that
20 should not hesitate to contact me."

21 So you can see that the process that has gone on
22 over the -- we obviously unfortunately don't have the
23 review material which might record the type of childcare
24 difficulties that seem to be being alluded to, but this
25 sequence of events is not abuse-related other than in

1 for the past four months."

2 Now this application form is in and around
3 , as we will see shortly. So he worked
4 for four months doing two nights
5 per week. It is said:

6 "In that time he has impressed staff with his
7 reliability, enthusiasm, keen interest to know more
8 about childcare work and they see him as a promising
9 member of staff."

10 If we go back, please, to 5972 -- sorry -- 5792 --
11 my apologies -- 5792, this is his application form,
12 similar in form to the one we looked at yesterday in
13 respect of BAR3, and if we scroll through, please, his
14 personal details are recorded, his education history and
15 then he has been unemployed prior to seeking out this
16 post. We can see reference to spare time activity:

17 "Working with the Samaritans, Dr Barnardo's and then
18 a club that works with mentally disabled adults."

19 Gives references. You can see in the introduction:

20 "Works for Dr Barnardo's wants to
21 pursue a career of some ..."

22 I am not entirely sure what the rest of that is.

23 If we scroll down a little further then, there is
24 the medical examination, if we move on to the next page,
25 please. Then there is the interview that's conducted

1 with him and discussion about how he would be interested
2 in training.

3 Then if we scroll further down, please, describes
4 the voluntary work he has been engaged in. If we move
5 on down, please. Scroll further down, please. So this
6 is recording the findings, as it were, interview. If we
7 move further down -- we have just looked at the top of
8 that page. So if we move further down, you can see the
9 personal qualities that are assessed by the person who
10 is doing the interviewing.

11 Move down further. You can see, if we just pause --
12 sorry -- just scroll up a little bit -- you can see the
13 person who is doing the interviewing is BAR24, the
14 , and this is being signed
15 off, as it were, on .

16 The letter of appointment, if we look at 5800,
17 please, having impressed over the four months of the
18 work effectively, although it is dated I think
19 later in January, it backdates the employment having
20 commenced on .

21 As we saw in BAR1's case, Barnardo's are operating
22 the probationary period system, and if we look at 5806,
23 we will see that on the probationary
24 period was:

25 "... pleased to advise that following a satisfactory

1 report on your work your probationary period has ended
2 and you are now confirmed as an established member of
3 staff."

4 If we scroll on to the next page, please, we will
5 see the report from BAR24 on the probationary period.
6 He says -- refers back to the :

7 "Although no previous experience, decided he would
8 like to enter into residential social work on
9 a full-time basis. On starting full-time duties BAR2
10 realised that the degree of disturbance he would be
11 dealing with was higher than he had first thought and
12 soon found that working with children and young people
13 on a full-time basis was a different work to

14 . He did have problems with discipline at
15 first, being a little too soft, but with support from
16 his group leader he is now able to cope.

17 During his time at Macedon BAR2 has been consistent,
18 willing and cooperative. He makes relationships easily
19 with both staff and children alike. Given support, BAR2
20 will become a very worthwhile member of staff.

21 I recommend that he be confirmed in his post."

22 That's again BAR24, the .

23 Now BAR2, if one takes into account the

24 , worked for Barnardo's for just over two years.

25 He left on , and if we can look,

1 please, at 5808, this is the staff confirmation of
2 termination. You can see in the top right-hand corner
3 the last date of his work was . So
4 the transfer to Sharonmore being in so he
5 worked in Macedon from with the
6 before that for essentially -- two and a half years
7 I said -- two years -- three years -- two and a half
8 years in Macedon and then six months in Sharonmore when
9 he leaves. He leaves to take up a promotion in effect,
10 an assistant head of the
11 . He took that post up in . He
12 carried that out until for reasons that we
13 will come to shortly.

14 Now he received on an extremely
15 positive termination report, if we look, please, at
16 5811. It seems part of the Barnardo's process when
17 a member of staff leaves a termination report is
18 provided:

19 "BAR2 ..." --

20 and you will see this is signed by BAR36. So she
21 had become the in Sharonmore. I am not
22 sure. I think she had worked there in any event prior
23 to her being promoted to this role, but I will check and
24 confirm that to you, but what she says of BAR2 was:

25 "Sensitive, warm, concerned worker. He related well

1 to children and colleagues.

2 He was particularly flexible and willing to look at
3 new ideas. He made excellent use of the one year
4 part-time course ..."

5 So he was doing his childcare qualification:

6 "... and plans to pursue further training at a later
7 date.

8 He was a reliable and very willing worker, flexible
9 re rosters and able to cope with stress.

10 We were sorry to lose him."

11 So that was the view being expressed at the time
12 that he left by BAR36.

13 I wonder, Members of the Panel, could I ask if we
14 just took a short break, because I have reached a point
15 in the chronology where there's some further matters
16 that it may be appropriate to deal with at this point,
17 but I need to attend to that matter in terms of
18 documents.

19 CHAIRMAN: Yes. We will rise now and resume again in due
20 course.

21 (11.05 am)

22 (Short break)

23 (11.20 am)

24 CHAIRMAN: Yes, Mr Aiken.

25 MR AIKEN: Chairman, Members of the Panel, just before the

1 break we were looking at BAR2. I had mentioned to you
2 during the first day of the opening that -- if we can
3 just bring up on the screen the letter concerned -- that
4 Barnardo's had provided the Inquiry with a letter of
5 . It is a letter written by -- if we
6 just scroll down to the bottom so you can see -- it's
7 written by **BAR111** , **[REDACTED]**
8 **[REDACTED]** . If we scroll up please, you can see that it
9 is copied in the top right-hand corner to ,
10 also to **BAR79** , **[REDACTED]** , and to
11 **BAR36** , **[REDACTED]**
12 **[REDACTED]** . You can see that it is , **BAR2**
13 having resigned to take up the post in
14 in , but
15 the letter carried the implication that the police had
16 been in contact with Barnardo's about BAR2, and this
17 letter sets his employment history with them and it also
18 enclosed a list -- and we don't have the list that would
19 have been attached to the letter -- but it enclosed
20 a list of the young people who were resident in the
21 Sharonmore project during his time. I think the word
22 "Sharonmore project" had become associated with while
23 Macedon was still operational, but if we scroll down, it
24 covers -- and then there's reference:

25 "While it would be possible to interview the young

1 people present in Sharonmore, this would have to be
2 arranged in conjunction with ", whom you have
3 heard of before, who was the in the
4 Eastern Board, "in whose legal care the majority of the
5 young people are."

6 I had said to you that we had received this document
7 and it carried the implication that there should be more
8 police material to explain what was it that was being
9 investigated that led this letter to respond in this
10 way, and overnight we have received the police file to
11 which this relates. The police file runs from BAR-9373
12 to BAR-9474 and again it's a significant volume and I am
13 going to just summarise it. It was an investigation
14 into in the Greater
15 Belfast area and as a result of
16 BAR2 had come to police attention in connection with
17 another man, and that led the police to look at BAR2 and
18 his partner, who lived together from the early part of
19

20 There was no -- nothing in the investigation that
21 suggested any activity untoward with children. It was
22 purely looking at -- and obviously -- we talked on the
23 first day about context being everything and the time
24 that things happen. Obviously in the early part of the
25 1980s the legal position had recently changed over

1 homosexual activity, but the social attitudes would not
2 necessarily have changed significantly.

3 The investigation looks at a series of different men
4 and their activity together. One of those men happened
5 to be BAR2, which led the police to look at -- because
6 it was the same police team ultimately who were looking
7 into the Kincora matters in '80 through to '84 -- and
8 they decided to investigate whether there was any risk
9 to children from BAR2, given that he was associated with
10 having worked in Dr Barnardo's and at that point in time
11 was the of a children's home in
12

13 That led the police to interview various members of
14 staff from Barnardo's, and I am going to look at their
15 statements. I am going to look first at BAR36. If we
16 look, please, at 9397, which is a statement of
17 , she explains she is .
18 She explains she first joined the project in
19 , took over the role as :

20 "BAR2 was based at the home as a residential social
21 worker before I arrived. from
22 the time I arrived until he terminated his employment
23 with us in ."

24 That should be --

25

1 vetted.

2 During the time that
3 I had not received any complaints either from the
4 children or from any member of staff regarding
5 activities by BAR2."

6 Scroll down, please:

7 "I was in close contact with the children and I know
8 that if BAR2 had been involved with any of them, they
9 would have let it be known. If any holidays were
10 arranged, BAR2 would have gone as well as part of the
11 team of residential social workers."

12 Then, yes, if we just scroll down on to the next
13 page, because that's where I'm going, the police also
14 spoke to BAR7, and her statement is of
15 on 9402. She explains that she had been working in the
16 group since , but previous to that she had
17 worked in Macedon from until :

18 "During the time I was working in Macedon BAR2 came
19 to work there. He started working in around . I was
20 and I would have been BAR2's
21 during the time he was there. BAR2 would have
22 worked with a cottage group of approximately seven or
23 eight children of both sexes. It was part of BAR2's
24 responsibility to stay overnight with the children. He
25 would have had to stay maybe two or three nights a week.

1 During that time that I have known BAR2 I never had any
2 suspicion that he had any tendencies.
3 I never had any complaints from the children, and I feel
4 that if BAR2 ever had been interfering with the
5 children, myself or another member of staff would have
6 been told. As far as I can remember BAR2 never took any
7 of the children overnight. It is not policy, and if he
8 had taken any out, the superintendent would have had to
9 be informed. He would have taken the children away on
10 holidays, but this would have been in a group, and there
11 would always have been other members of staff there as
12 well. During the time I worked with BAR2 I felt he was
13 a very valuable member of staff."

14 So those are the views that were expressed to the
15 police. It is the case, if we look, please, at 9474,
16 that as a result of being identified as ,
17 because there were no prosecutions that arose in respect
18 of BAR2 out of this police investigation, on 8th June
19 the confirmed
20 that he had tendered his resignation on
21 with effect from . That resignation was
22 accepted by the District.

23 So the context of him no longer continuing to work
24 in . The Health & Social Care Board have
25 not any file to produce, as I understand it, and I am

1 not aware of any matter of a disciplinary nature or
2 anything of that sort, but the reason for the
3 resignation may well be contained in that police file.

4 So that's what I am going to say about BAR2 at this
5 point.

6 I am going to move on to look at the third
7 individual that featured in the Macedon Inquiry
8 and that's BAR3. We looked at his application form
9 yesterday. So this will take less time. Ultimately he
10 would face -- of the twelve individuals who made
11 allegations during the Macedon Inquiry he would face
12 five allegations. Three would come from ex-residents
13 and two from the children of the former staff member
14 **BAR 81** , with whom BAR3 resided for a period of
15 time while he worked in Macedon.

16 He was born on . We looked at his
17 application form from yesterday. It
18 runs from 5909 to 5914. He commenced his employment on
19 in Macedon -- the appointment letter was
20 of -- and he left about eight months later
21 on .

22 Now we didn't touch on this, but if we look at 047,
23 please, and paragraph 15, reference is made in the
24 statement of BAR13 that according to the staff file
25 there was a record that immediately prior to his

1 resignation it had come to light that he owed money to
2 both petty cash account and to certain children's pocket
3 money.

4 "The amounts were repaid and he resigned."

5 I think that's a reference to the BAR14's memo that
6 we looked at, which pre-dated by about five days the
7 BAR24 memo of .

8 The suggestion in paragraph 15 was that he had gone
9 off to . Just to finish this, the BAR14's memo
10 was and it is at 5924 or 075, and then the
11 BAR24 memo relating to BAR3 and BAR46 is at 074 of

12

13 Then as it turned out, by the time BAR46 renewed his
14 allegations in 1994 and was paid compensation BAR3 had
15 already died. He died in 1993, and he was dead
16 obviously then at the time of the Macedon Inquiry,
17 despite significant efforts to try and locate him so
18 these matters could be put to him.

19 That's the third individual.

20 The fourth individual I am going to deal with now,
21 and then I am going to remove him from our consideration
22 of the Macedon Inquiry, because he is more of
23 a standalone, and this is an individual called BAR52.
24 He faced one allegation from BAR55. If we can look,
25 please, at her police statement at 4410, the -- she

1 explains she was in Macedon between , aged
2 , and , aged . She explains that she
3 stayed in the cottage. If we scroll down,
4 please, she remembers the children that she lived with.
5 You will see those names are all -- certainly the first
6 number of them, BAR39, BAR47, HIA516, RG142, HIA216 were
7 all children who would feature in the Macedon Inquiry we
8 will come to look at. She believes it was there she met
9 BAR1.

10 "She was never called BAR1,
11 I believe she was called this because I remember her
12 telling me once that if I didn't behave myself, that I
13 would get .
14 She stayed regularly overnight in the cottage.
15 Full-time member and it was part of her job. Quite
16 regularly in the cottage she played a game that
17 was called the . The majority of the time
18 it would start in the TV room in the cottage when
19 the curtains were closed. I remember the lights were
20 turned off and the door was closed. She got us all
21 together ... It was always played after dark before or
22 after supertime, never during daylight. A few times
23 she brought us outside in the dark to play
24 game. Inside and outside the cottage I was really
25 scared. Some of the kids would be crying when they were

1 hiding from her. When the lights were turned out,
2 everybody hid from BAR1 in the TV room, or some kids
3 would get out of the room and hide somewhere else in the
4 cottage. When she chased us, she would move
5 about like a demon moaning. The game was to chase the
6 kids and catch them. Very, very rarely she caught me.
7 It seemed to be the younger children that she was trying
8 to catch. Only once I remember being caught in all the
9 times it was regularly played. She caught my upper arm
10 and twisted my skin round, hurting me, then stared into
11 my face, putting her face into mine, at the same time
12 gripping me that I couldn't get away. She was a strong
13 woman. She let go of me again and went on chasing the
14 other kids. I don't remember any other staff member
15 playing the game with her while I was there.

16 The other staff members that I remember working in
17 the cottage around the time were BAR35, **BAR 76**
18 ..."

19 That's **BAR 76** :

20 "... BAR7 ..."

21 I will ask you note those names, because we will
22 come back to those later:

23 "... and a **BAR 82** ",

24 who we will also come back to later:

25 "Other staff would come over from the main house to

1 work and others worked between the first and second
2 cottage. I remember once the game being interrupted by
3 a staff member in the cottage who turned the
4 lights on. I know they weren't pleased, but I don't
5 remember which staff member this was."

6 Then she says this:

7 "I was not sexually abused by any member of staff,
8 but I remember one occasion in like an old workshop
9 by **BAR 52** who was employed in Macedon. I was
10 alone when **BAR 52** called me into the workshop.
11 I went into the workshop with **BAR 52**. I was
12 standing at the workbench facing it when he came up
13 behind me, putting his arms either side of me with his
14 hands on the workbench, rubbing himself up and down
15 against my back. I could feel his privates rubbing up
16 and down the back of my legs, saying to me that I had
17 good legs. He rubbed my leg on top of my skirt with his
18 hand. I was only about at the time, wearing my
19 school uniform. Someone called my name and he moved
20 back. I did tell one of the other kids. I believe that
21 I told **BAR 83**, as I was very close to her then."

22 He then describes -- she then describes what he
23 looked like and the fact there was only
24 . She stayed away from **BAR 52**
25 after that.

1 being ' , is outside the main focus of the
2 investigation, which was -- in
3 reality, bar one particular allegation. So this is the
4 only known allegation in Barnardo's in respect of this
5 man.

6 I have drawn the Panel's attention to one piece of
7 police material that related to a girl in the community
8 who made an allegation that seemed to be against the
9 same man, but wouldn't make a statement to the police,
10 of touching. The reference for that is at 9083 and 4.

11 Those are the four individuals. I am going to
12 concentrate on the three main individuals, BAR1, BAR2
13 and BAR3 from now on. I am not going to say any more
14 about BAR52.

15 But looking at the Macedon Inquiry then, through
16 a process of contact initiated by Barnardo's they
17 attempted to speak to -- the police attempted to speak
18 to all of the individuals who resided in either
19 institution -- if we can bring up 4245, please -- during
20 the period that was being looked at, and that turned out
21 -- if we can just scroll down to the bottom, you will
22 see that it's 51 individuals were identified as having
23 passed through Macedon or Sharonmore during that period
24 of through .

25 A process was agreed and implemented, if we can look

1 at 061, please, of Barnardo's sending out contact
2 letters, because you will recall me explaining that the
3 investigation began with you had HIA516's, the '97
4 police file, no prosecution direction, then two
5 statements in the summer of '98 from BAR47 and HIA101
6 and then a renewal of the investigation '99/start of
7 2000. The process that was agreed through the joint
8 protocol group was for Barnardo's to send out these
9 letters, and that was referring the person they were
10 writing to back to their time in Macedon, Sharonmore,
11 pointing out that:

12 "A complaint has been made to the RUC."

13 Not saying what the complaint was, but that there
14 had been a complaint, and that:

15 "As a result the RUC [was] conducting a criminal
16 investigation."

17 Barnardo's was assisting police to get in touch with
18 people who lived there during that period. You can see
19 the list goes wider, but it's to .

20 "If you have any information that can assist ..."

21 The details are given for them to get in touch. At
22 the same time, as you will see from the statements,
23 BAR36 -- BAR8 was involved with seeing -- through her
24 ongoing contact with a number of children involved then
25 in taking the disclosures and introducing them to the

1 police.

2 So in keeping with the Northern Ireland protocol for
3 joint investigation that existed at this point relating
4 to large-scale organised child abuse, in 1999 the matter
5 was referred to what was then the Eastern Health &
6 Social Services Board. That resulted in a joint
7 protocol operation team being set up, which was chaired
8 by the then Director of the Eastern Health & Social
9 Services Board and made up by representatives of the
10 police, Barnardo's and Social Services.

11 The aims and objectives of the protocol -- if we
12 just look at 4246, please, you can see that the
13 operational team -- if we just scroll down a little bit,
14 please. This is contained in Detective Constable
15 Boyce's detailed report. He explains what the purpose
16 of this arrangement was, (a) through to (g), and it is
17 the case and available in the bundle are minutes of the
18 meetings that took place between these organisations as
19 the investigation was being managed.

20 Now the upshot of identifying the individuals to be
21 contacted and then engaging in the contacting process of
22 the 51 individuals produced the following results.

23 Thirteen individuals could either not be located,
24 were confirmed to be deceased or were not prepared to
25 speak to the police. That can be found at BAR-4248 to

1 4256, where each of the 51 individuals and what happened
2 to them in terms of their engagement in the
3 investigation is set out. So thirteen of 51 couldn't be
4 engaged with.

5 Another 27 individuals did speak to police and said
6 they were not abused and were unaware of abuse of anyone
7 else.

8 Then ten of the 51 individuals, ex-residents, made
9 police statements wherein allegations of abuse were
10 made. Now if any someone is checking my maths, they
11 will point out that that is 50, not 51, and that's
12 because one other individual, which would make eleven,
13 did make an allegation, but about an entirely different
14 member of staff than the four that I have talked about,
15 and I will return to him at a later point with BAR13,
16 who engaged with at that particular issue, but that
17 person was not prepared to make -- didn't feel able to
18 make a police statement, but Barnardo's pursued the
19 matter with the police and with the individual and there
20 was an exchange between BAR13 and the individual, who is

21 **BAR 82** , that we will look at in her evidence.
22 So that makes the 51 and out of the 51 there were ten
23 police statements of ten individuals making allegations.

24 In addition, two children of a former member of
25 staff, **BAR 81** , who worked in Macedon, who was by

1 this time deceased, also made allegations that were
2 recorded in police statements. We will see that one of
3 them -- BAR3 lived with **BAR 81** and
4 for a period of time, and a brother and sister, children
5 of **BAR 81**, say they were abused by BAR3 in their
6 home, and the girl, BAR56, as she was, went further and
7 said that she was abused by BAR1 when she came to
8 Macedon with **BAR 81**.

9 So that brings the total number making allegations
10 in the Macedon Inquiry to twelve, ten ex-residents and
11 two children of a former member of staff, who made
12 police statements, and of that twelve, ten individuals
13 make allegations against BAR1. What I am going to now
14 very briefly is to signpost for the Panel the
15 individuals where relevant material can be found, but I
16 am not going to go through the detail of it.

17 Of the ten individuals who make allegations against
18 BAR1 the first was HIA516. He made his allegation in
19 May of 1997. We looked at that yesterday in the 1997
20 police file, in which a no prosecution direction
21 followed. If I can ask you to note that. That will be
22 of particular importance when we look at what happens
23 before the Court of Appeal. So HIA516's statement is
24 from May of 1997. He has a criminal record and the
25 Panel will find that at 8099 to 8103. It includes

1 a series of sexual offences, including rapes.

2 The allegations that he made, as you know, were not
3 limited to BAR1. They also involved , BAR 30
4 BAR 30, and BAR12. We looked at the fact that he made
5 the allegations against BAR12 first in . Ultimately
6 when the matter proceeded to trial in respect of BAR1 he
7 was counts 1 to 12 on the indictment. That can be found
8 at 4003 and 4. BAR1 was not convicted of any offences
9 relating to HIA516. I need to check to make sure
10 whether he actually gave evidence or not, but I am sure
11 that's something that we can clarify. She was not
12 convicted of any of the counts relating to him.

13 The second person who made allegations against her
14 was HIA101. We looked at his June 1998 statement last
15 evening. His allegations were against **BAR 30** ,
16 against **HIA 516** that we have just talked
17 about, against BAR1, against BAR2 and then against
18 another boy who was resident in Sharonmore. He then
19 withdrew his allegations against HIA516 and
20 the other boy, and he himself as part of the Macedon
21 Inquiry was the subject of allegations from a man called
22 **BAR 84** , who was
23 making his statement without any connection to
24 the Macedon Inquiry.

25 HIA101's criminal record can be found at 8093 to

1 8098 and it again has sexual offences that are recorded
2 on it. He formed counts 19 to 28 on BAR1's indictment
3 in respect of the criminal trial. That's again at 4005
4 and 6. BAR1 was convicted in respect of counts 19 to 27
5 in respect of him. The one count she wasn't convicted
6 of was count 28, which was an assault. So all of the
7 sexual offences she was convicted of but not the
8 assault. I am not sure whether the assault was the
9 wooden spoon incident or alleged to be something else
10 that was being charged.

11 The third individual who made allegations against
12 BAR1 was BAR47, . Her allegations
13 were not just against BAR1. They were also against BAR2
14 and **BAR 30** . You saw the disclosure
15 about **BAR 30** while in Macedon, but she -- in her
16 initial statement to police in July of I mentioned
17 to you yesterday, and you will have the opportunity to
18 consider it, she doesn't make allegations against BAR1
19 in it, but then does make allegations against BAR1 in
20 her statement of 18th May of 2000 in terms of -- what
21 I mean by that is serious sexual allegations.

22 She formed counts 13 to 18 on the indictment. 4005
23 is the reference for that, and she was not prepared
24 ultimately to give evidence, and I presume, although
25 I have not yet confirmed, that the charges were

1 withdrawn from or the jury was directed to enter a "not
2 guilty" in respect of them, but she was not -- BAR1 was
3 not convicted of any of the charges that related to or
4 any of the counts that related to BAR47.

5 The fourth individual that BAR1 faced allegations
6 from was BAR46. His police statement was of 6th -- the
7 police statement that was relevant to the Macedon
8 Inquiry was of 6th May 2000. You are aware he had made
9 allegations to the police in 1994 against BAR3 only, but
10 in the Macedon Inquiry his allegations were against
11 BAR3, BAR1 and BAR12.

12 His criminal record is at 8710 to 8712. He formed
13 counts 29 and 30 on the indictment at 4006, and BAR1 was
14 convicted of both of the counts in relation to him. My
15 recollection is that was to do with the bathing where
16 sexual assaults were alleged.

17 The fifth individual who made allegations against
18 BAR1 was BAR29. Her police statement of 9th May 2000
19 can be found at 4442 to 4450, and her allegations were
20 against BAR1 and BAR2. They were very serious
21 allegations. BAR2 was accused of rape. The statement
22 is lengthy and therefore I am not going to open it at
23 this stage, but I would invite the Panel to read it,
24 because it will be relevant to BAR9 giving evidence in
25 due course and to a consideration of the allegations

1 against BAR2, but again as far as BAR1 was concerned, it
2 involved the games in the dark and what were then said
3 to be sexual assaults when BAR29 was caught. There were
4 various physical abuse allegations alleged with bleach
5 and then there were allegations made that more related
6 to BAR2.

7 Now she formed as far as BAR1 was concerned counts
8 78 to 86 on the indictment. That's 4011 and 4012, and
9 BAR1 was convicted on counts 78 to 83, but not 84 to 86.
10 That can be found at 6769.

11 The sixth individual was BAR37, who I'll be coming
12 back to in some detail. His allegations were of --

13 CHAIRMAN: Regarding BAR29, are you in a position to
14 distinguish the nature of the counts that BAR1 was
15 convicted in respect of and acquitted; in other words,
16 was she convicted on the sexual offences and not on the
17 physical or vice versa?

18 MR AIKEN: If we bring up, please, 4012, it's numbers 84 to
19 86, and they were sexual offences. Sorry. I'm sorry.

20 They were --

21 CHAIRMAN: 84, 85 and 86 are charges of --

22 MR AIKEN: Assault.

23 CHAIRMAN: -- common assault.

24 MR AIKEN: It is the sexual offences that, if we just scroll
25 up a little, please -- no, the other way -- I am

1 sorry -- you can see that the offences that she was
2 convicted of were the sexual offences.

3 CHAIRMAN: Yes.

4 MR AIKEN: I think I am right in saying that all of the
5 charges that were physical assault against BAR1 in
6 respect of any individual she was not convicted of any
7 of those. All of the convictions are for sexual
8 offences that the same group of children, then adults
9 alleged against her.

10 Now BAR37 is the sixth individual and his police
11 statement is of 9th June 2000. It runs from BAR-4454 to
12 4463. It may be, Members of the Panel, if I could ask
13 you to perhaps over lunch time if you read that
14 statement, unwelcome as that interruption will be to the
15 various other things that have to be attended to behind
16 the scenes, but it would save us going through it now on
17 the screen, but the gravity of the allegations and their
18 nature are of particular import on what I will then deal
19 with this afternoon.

20 He makes allegations against BAR1, BAR3, BAR2, BAR12
21 and also then a man called LN 110 in Lisnevin. The
22 allegations it appears were first made in August of 1999
23 to BAR13, following receipt of the contact letter,
24 according to the police report in any event. That's at
25 4300.

1 The allegations are -- I just going to summarise
2 them and leave the Panel to read them in the statement
3 -- but he claimed that BAR1 made him abuse **BAR 38**
4 **BAR 38** in the bath. He then received corroboration for
5 that from **BAR 38** , who made the same allegations, and
6 that became a central feature before the Court of Appeal
7 as to the -- him admitting before the Court of Appeal
8 that he told her what to say to the police and then her
9 before the Court of Appeal denying that he had done
10 that, and also from HIA101, who refers in his statement
11 to them being bathed together. He also alleged that
12 BAR1 had with him and viewed others having sexual
13 intercourse with BAR1; that BAR1 had forced boys to
14 bugger each other. There is reference to hypnotising,
15 which is then corroborated by **BAR 38** , and then he
16 alleges that BAR1 and BAR3 in consort sexually abused
17 him, with then BAR3 taking photographs, and then
18 alleging that he viewed BAR1 and BAR3 having sex on
19 a chair in the boys' bedroom and him seeing this, and he
20 then alleges that a particular attack on BAR1 in the
21 dining room, when he threw hot tea over her, led to him
22 being sent to Rathgael. There is a record of that
23 incident where he did throw hot tea over her.

24 He then in respect of BAR2 says that he at one stage
25 jumped off the roof of Macedon. He broke both his arms.

1 He alleges that he was taken to hospital by BAR2 and
2 another man, who drove the vehicle, and BAR2 took the
3 opportunity to sexually abuse him on the way to hospital
4 with the two broken arms. He alleged also he was
5 bugged by BAR2 in Macedon, which BAR2 was acquitted
6 of. We will see the reaction to that in letters in due
7 course.

8 The position in respect of BAR37 is that 33 counts
9 on the indictment against BAR1 were in respect of him,
10 counts 31 to 63. BAR1 was convicted on counts 31 to 43
11 and not convicted on 44, which was about ill-treatment,
12 but also convicted on 45 and 46.

13 If we can just look, please, at 6769 --

14 CHAIRMAN: What happened to counts 47 to 63 if they were
15 also against BAR1?

16 MR AIKEN: I am just going check to make sure that I am
17 right in saying that they result -- if we can bring up
18 6769, please. They appear to have been acquittals.
19 I am just going to take us back, if I may, please, to
20 4008, where we can see some of the 50s charges. So you
21 can see what they related to. They are indecent
22 assault, gross indecencies, the incitement to abuse
23 another, which is his allegation that he was incited by
24 BAR1 to abuse **BAR 38** and vice versa, **BAR 38** on
25 him. If we scroll down a little further, please -- if

1 we scroll down a little further, so a number of the --
2 in addition to the ill-treatment charge the rest of
3 those that she was not convicted of were sexual offences
4 alleged by BAR37, including the ones that involved ^{BAR 38}
5 **BAR 38**. If we just scroll down so we can see the last
6 two, please.

7 I have tried to do this in the most manageable form
8 that I can think to bring it together. Whether I have
9 achieved that or not might be another matter, but those
10 six allegations were all made in statements that then
11 resulted in BAR1 being arrested and interviewed on
12 23rd June 2000. Her first interview runs from 4925 to
13 5022, and then the second interview was the next day,
14 24th June, and that runs from 5021 to 5046. All being
15 well, we can look at the detail of that with BAR1 in due
16 course, but she denied sexually assaulting anyone at any
17 stage.

18 Those are the six that made up that group that were
19 then dealt with in the first and second interviews.

20 The sixth individual of the ten in total against
21 BAR1 was HIA216, who is an applicant to the Inquiry, and
22 her statement can be found -- her police statement was
23 of 20th July 2000 and runs from 4413 to 4420. As you
24 will recall, she featured in making disclosures to
25 BAR8 about BAR4 and made allegations to police in

1 a police statement, but you will recall in the BAR8
2 documents reference to her being told something about
3 BAR2 rubbing her leg in the minibus, but the allegations
4 that are made in the Macedon Inquiry are against BAR1
5 and they were not made at any stage prior to that. They
6 were not made in the previous police statement of .
7 They are made against BAR2, but of a much more serious
8 import, as we will see, to rubbing the leg in the
9 minibus and include allegations of rape.

10 She makes allegations of BAR1 and BAR2 together
11 sexually abusing her and then BAR1, BAR3 and BAR2
12 together sexually abusing her. She also makes
13 allegations about BAR4 and **BAR 30** . Again that's
14 a statement you may want to read in full, which runs
15 from 4413 to 4420.

16 What she was saying was that she was sexually
17 assaulted during the games, , by all
18 three members of staff; that she was raped by BAR2 in
19 the minibus; that she was left at **BAR 30** house by
20 BAR2, who then took BAR47 away, who he was said to have
21 been very close to, and was then subsequently the
22 subject of allegations from BAR47. His reply to that
23 was that he never took her to **BAR 30** house and
24 there wasn't any support for that from HIA101 or BAR47
25 either.

1 She also alleged that she was raped by him at the
2 , as was BAR29. That was part
3 of the -- one of the trips. Then indecent assaults on
4 her in BAR2's bedroom, allegations of rape against him
5 in his flat, and the police did deal with her in respect
6 of speaking to her about the calls that she had made to
7 BAR2 in 2000, which she accepted making.

8 She alleged that BAR1 and BAR3 had took her to
9 BAR1's property where she was raped by BAR3 in front of
10 BAR1. BAR3 and BAR1 had sex in the living room, which
11 she saw, and she gave another example, being tied to
12 a tree, where she was sexually abused by BAR1, BAR2 and
13 BAR3, and then on another trip out to the zoo being
14 abused by BAR1 and one of the other two men.

15 Now the accounts that related to her were 70 to 77
16 on the indictment, 4010 to 4011. BAR1 was convicted of
17 counts 70 and 71. If we can just look, please, at 4010,
18 please, if we scroll down, please, 70 and 71 were two
19 indecent assaults, but you will see that 72 through to
20 77 were indecent assaults, but also if we scroll down,
21 please, a little further so we can see all 74 to 77, you
22 can see that 76 was the rape allegation.

23 CHAIRMAN: Aiding and abetting a rape of HIA216 by BAR3.

24 MR AIKEN: Yes. Now the eighth individual who made

25 allegations against BAR1 was BAR39, and he was -- his

1 police statement was 3rd August 2000. It can be found
2 at 4472 to 4476.

3 His criminal record is at 8708 and 9 and there is an
4 English record that runs from 59659 to 59663. He made
5 allegations only against BAR1 that when he was
6 bathing -- if we just look at his statement, please, at
7 4472. Scroll down, please. So he says:

8 "I can say that I was sexually assaulted by BAR1 in
9 Macedon. She was a staff member in Macedon and in
10 Sharonmore, but she didn't work with me in Sharonmore.
11 She was the kids. The
12 reason for this she
13 would tell ghost stories, turn the lights out and stare
14 at the children in a menacing way. This was called the
15 game. Sometimes she would have a knife."

16 I am not aware anyone else makes reference to that:

17 "I always seem to remember that she played
18 game in the lounge of the second cottage when
19 I stayed there. Played this regularly, telling ghost
20 stories, talking about the devil, using words like
21 'Lucifer' and 'Satan'. These stories terrified me.
22 I remember having bad dreams and waking up screaming
23 afterwards. It was mostly in the evening, mostly after
24 dark."

25 I draw attention to that because -- and if I can ask

1 you to note it, we will come to this later -- when we
2 have BAR37 writing his correspondence, he talks about,
3 in fact, a number of the children were never scared by
4 BAR1's stories and one of the individuals you will see
5 him identify is this boy. He then says:

6 "I remember on the occasion she caught me she pulled
7 me down on the floor. It was almost like hide and seek.
8 She would dig her nails into me on several occasions,
9 causing me a lot of pain."

10 If we scroll down, please:

11 "I remember on occasions her lying on top of me with
12 her breasts in my face as she pinned me down."

13 Then talks about the and
14 BAR37.

15 "Occasionally BAR2 would be around and he played --
16 he was present when BAR1 played the game. He was
17 involved in it on occasions in one way or another and
18 would have been on shift with BAR1. I do remember
19 another member of staff called BAR3 was involved in
20 telling ghost stories at the same time. They seemed to
21 complement each other. There were no other staff
22 members involved."

23 If we scroll down, please:

24 "From the age of 13 -- before this I was away from
25 Macedon most weekends, didn't stay as often -- I do

1 remember that BAR1 bathed me. I only remember her
2 bathing me in the cottage."

3 So the children moved across I think in the early
4 part of to the main house from the cottage:

5 "I would have been under 11 years old, because
6 I know you had to be 11 before you could move over to
7 the house. Never bathed by any staff member other than
8 a staff member called BAR 6 . BAR 6
9 never bathed me in the same way as BAR1. BAR 6
10 would have been present in the bathroom supervising me
11 and I bathed myself. BAR1 bathed me herself, forcing me
12 to stand up in the bath, often in cold water. She used
13 a face cloth to rub my face roughly. Sometimes she used
14 a cloth to rub around my genitals and my backside. On
15 other occasions she used her bare hands and soap. She
16 bathed me regularly when she was on duty. When I say
17 rubbing my backside, I mean that she rubbed between the
18 cheeks of any bum and around my scrotum sack. I can
19 remember times when she shouted at me to keep these
20 areas clean and I can remember one occasion she tried to
21 put a hose into my bum. This hose normally had a shower
22 head attached. On this occasion the shower had been
23 removed. Water did go inside me, because I remember as
24 a child later peeing from my bum, which I couldn't
25 understand, feeling frightened and ashamed. When she

1 did this, it really hurt my backside and I was telling
2 her to stop. I was crying and frightened. I remember
3 her putting soap around my testicles. She pulled my
4 foreskin back and washed my penis. She used to talk
5 about Jewish people had their foreskin removed and that
6 they were clean. She would say that she had to keep
7 this part of me clean. I believed -- I believe that she
8 bathed me up until I was 11 or so, when I moved to the
9 big house. My older sisters were in the big house.

10 BAR1 was a strict disciplinarian. She did sleep
11 over when she was on duty on a late. As a child
12 I couldn't tell a staff member about what she was doing.
13 She was in charge. There was a culture that the staff
14 were always right and the kids were wrong. My memories
15 of BAR1 are mostly in the second cottage.

16 I can remember when I was older

17 , I knew she was

18 BAR 85 . I challenged her about BAR 85
19 and about herself and why she was working with children.
20 She was grinning and laughing. I also confronted her
21 about what she had done to me and another member of
22 staff called BAR 86 intervened, threatening me with
23 police action if I persisted."

24 There is a -- BAR 86 was spoken to and his
25 statement is at 4297. He couldn't recollect this

1 incident happening. Sorry. His statement is at 4636.

2 "With Kincora breaking it reconfirmed to me BAR1 was
3 wrong in what she had done to me and I was right.
4 I realised then it was untoward, what she had done.
5 I had a deep mistrust of all staff in the home
6 afterwards.

7 I remember BAR2 ..."

8 Scroll down, please. He is making reference to
9 a particular book. I think that's after he has left.
10 If we scroll down, please, you can see reference to the
11 gossip that was said to be going on that **BAR 3**
12 had tried to have or had sex with BAR46. BAR3's
13 nickname was There's reference to BAR37
14 jumping off the roof and being taken to hospital by
15 BAR2. You can see then reference to BAR12 and HIA516.
16 Just scroll down, please. That brings the statement to
17 an end. If you just scroll down just to make sure I am
18 right about that. Yes. Sorry. Just move down to the
19 next page. That's okay.

20 So those are the allegations that he made about
21 bathing centrally and he appeared at counts 87 to 95 on
22 the indictment. If we look at 4012, please -- just
23 pause there, please. I think I may have to correct
24 something I said to you earlier, Members of the Panel.
25 He is at 87 to 95, and 8... -- ultimately what happens

1 is BAR1 is convicted of 87 and 88, which are assaults,
2 and also 91 to 94, but not 89 to 90.

3 CHAIRMAN: Can we scroll down a bit more, please?

4 MR AIKEN: Scroll down a bit more, please.

5 CHAIRMAN: So 91 to 94 are indecent assaults.

6 MR AIKEN: Yes.

7 CHAIRMAN: 87 and 88 are common assaults, physical assaults.

8 MR AIKEN: Yes.

9 CHAIRMAN: And 89 to 90?

10 MR AIKEN: 89 and 90 seem to be common assaults, section 42
11 assaults as well that she was not convicted of.

12 So that's the eighth individual.

13 The ninth individual is BAR38, BAR37. Her
14 police statement is of 20th October 2000. It will
15 become a central focus in the Court of Appeal. It is at
16 BAR-4465 to 4469. She was a year and three months
17 younger than **BAR 37**.

18 She made allegations against BAR1 and BAR2. She
19 alleged that BAR1 had made her and **BAR 37** engage in
20 sexual acts in the bath together and then alleges that
21 she had sexual intercourse with six boys in cottage
22 and that BAR1 made her have sexual intercourse with
23 another boy. She says she told **BAR 37** at the time
24 about BAR2 sexually abusing her and he then --

25 **BAR 37** corroborates that.

1 She featured at counts 64 to 69. If we just go up
2 to that at 4010, please, one of the allegations was when
3 I said that she was made -- she alleged that BAR1 made
4 her have sexual intercourse with another boy, and that
5 was a boy called **BAR 87** . By the time the
6 allegation was made **BAR 87** had long since
7 So the police weren't in
8 a position to ask him about what was alleged, but
9 ultimately if we go up to 64, please, if we just scroll
10 up a little bit more, BAR1 was convicted of counts 64
11 through -- 64 and 65, so gross indecency with -- incited
12 to commit an act of gross indecency with another, namely
13 BAR37, even though BAR37 was not similarly -- the charge
14 in respect of him did not result in a conviction. If we
15 scroll down, please, to 65, then you can see -- so she
16 was convicted of 64 and 65, but not 66 and 67. BAR1 was
17 convicted of 68, but not 69, which was the inciting to
18 engage with the other boy, **BAR 87** .

19 The tenth individual --

20 CHAIRMAN: The jury appear to have been satisfied to the
21 necessary standard that there were some but not all of
22 the gross indecencies involving the two
23 children.

24 MR AIKEN: Yes. The tenth individual then was

25 , So the one

1 to nine were the ex-residents. The tenth individual was
2 BAR56. Her police statement is of 15th September 2000,
3 and again for reasons that will become clear I'm going
4 to draw that -- I am not going to look at it now, but
5 I am going to flag that up for the Panel. That's at
6 BAR-4497 to 4504. She explains how she visited Macedon

7 . **BAR 81**

8 **BAR 81** had worked there from
9 to . So that covered
10 the period BAR1 would have been working in -- at Macedon
11 and then Sharonmore.

12 Her allegations were about BAR3 in her home, but
13 also BAR3 during the games involving -- sorry -- BAR3 in
14 her home raping her, and then the allegations against
15 BAR1 were that during the games that BAR1 had in Macedon
16 at night-time she would take that opportunity to
17 sexually abuse her, inserting her fingers in her vagina
18 and her anus and then also forcing her to give BAR1 oral
19 sex.

20 Now the allegations are first made on 18th August
21 2000 when the police go to see her because they have
22 been told BAR3 used to live there with her family. That
23 is recorded in the police report at 4339. BAR56 would
24 feature at counts 96 to 105 on the indictment and BAR1
25 was convicted on all counts in respect of her.

1 In BAR38's statement -- I'll just draw your
2 attention to it, if we need it -- you will see that she
3 makes a remark about how her and BAR56 were friends.
4 Then we will look later on today at the Court of Appeal
5 judgment where the Crown draw to the Court of Appeal's
6 attention a major issue in respect of her.

7 BAR1 was then interviewed for the third time after
8 those further statements were available and that third
9 interview took place on 25th January of 2001 and it runs
10 from 4825 to 4886 in the bundle.

11 Now I am going to turn briefly to BAR2. He was the
12 subject of allegations from six of the twelve
13 individuals who made allegations to the police in
14 statements.

15 The first was BAR47 and I have identified her
16 statements already. It is in the second of those in
17 May 2000 that she speaks of BAR2. Obviously there
18 wasn't any mention of him in the statement.

19 The counts that related to BAR47 in respect of BAR2
20 were from 106 to 133. We will see in the documents
21 later that there was discussion about the close
22 relationship she had with BAR2, that she was very
23 distraught when he left the employ of Barnardo's, and
24 the allegations then were made in 2000 that he had
25 sexually abused her. She withdrew and was not prepared

1 to give evidence before the Crown Court and for all of
2 those counts it fell away and he was not convicted of
3 any of them.

4 HIA101 made allegations against BAR2.
5 They were in his statement of 25th June '98, which is at
6 4391 to 4397. They formed counts 134 to 136 on the
7 indictment and BAR2 was convicted of all of those. If
8 we just look at 4017, please, 4017, please, you can see
9 that 134 was gross indecency, 135 another gross
10 indecency and 136 another gross indecency. So he was
11 convicted of three gross indecencies in respect of
12 HIA101.

13 The third individual who made allegations against
14 BAR2 was BAR29. Again I am not going to go through her
15 very lengthy statement, but she was convicted -- BAR2
16 was on counts charged at 139 through to 156. He was
17 convicted on 139 and 140 and also 145, which was a rape
18 said to have taken place I believe in on this
19 holiday, and also on counts 150 to 156, but he was not
20 convicted on 141 to 144.

21 CHAIRMAN: (Inaudible) 141 to 145?

22 MR AIKEN: Just scroll down, please, so we can see the next

23 ...

24 CHAIRMAN: Indecent assaults.

25 MR AIKEN: The rape is at 145.

1 CHAIRMAN: Then 150 to 156, more indecent assaults.

2 MR AIKEN: Go back just up to 146, please. 146 was also
3 rape. So if we just go to 6771, please. Scroll down,
4 please. Yes. Just scroll down a little more. Yes. So
5 there were two counts of rape, one at 145 and one at
6 146. BAR2 was convicted of the count at 145.

7 CHAIRMAN: That must have been the rape --

8 MR AIKEN: Yes.

9 CHAIRMAN: -- judging by the reference to Antrim.

10 MR AIKEN: Yes.

11 CHAIRMAN: And the other one related to Belfast.

12 MR AIKEN: Yes. The fourth individual was BAR37 and he
13 featured at counts 137 and 138. BAR2 was not convicted
14 of those allegations. If we look at 4017, the second of
15 those I believe was an allegation of buggery, if we
16 scroll down, please. Yes. He wasn't convicted of
17 BAR37's allegations.

18 Now the -- after those four statements were
19 available BAR2 was arrested and interviewed on 21st June
20 of 2000 and the interview runs in the bundle from 4693
21 to 4803 and then a second day of interview on 22nd June
22 2000 and it runs from 4804 to 4824.

23 Then the fifth individual was HIA216 and her
24 allegations are contained in her statement of 20th July
25 of 2000, which I have touched on already. It's at 4413

1 to 4420, and BAR2 was charged with counts 157 to 162 in
2 respect of HIA216. If we just scroll down, please, to
3 157, because he was only convicted of one count, which
4 was 160, which was the rape. So at 157 he was not
5 convicted, but was convicted of the rape in at
6 the same time as BAR29. Then he wasn't convicted on the
7 other counts in respect of HIA216.

8 The sixth individual was BAR38, BAR37,
9 whose statement was 20th October of 2000, and she
10 featured at counts 163 through to 166, if we scroll
11 through to those, please, and BAR2 was convicted of 163,
12 164 and 166, but not 165. So not of one indecent
13 assault, convicted of others.

14 The third BAR2 interview was then on 11th
15 January 2001 following these additional statements, and
16 it can be found at BAR-4825 to 4886 in the bundle.

17 Now I am going to just mention briefly then BAR3.
18 In respect of him, as I said, five individuals, three
19 ex-residents, two the children of **BAR 81** made
20 allegations against them. The ex-residents are the
21 same: BAR46 that you are aware of, HIA216 and BAR37, and
22 then the two children of **BAR 81**,
23 BAR56 and BAR58.

24 Now BAR58's allegations, he was the of
25 BAR56 and BAR3 shared his room. He said that he had got

1 into bed and fondled him and asked BAR58 to do the same,
2 and he also said that he had attacked him in the kitchen
3 in his home because of his behaviour, and that was
4 corroborated by a friend of his, **BAR 88** , whose
5 statement is at 4342. That was the extent of the
6 allegation that BAR58 made in respect of BAR3.

7 Now I am just going to show you -- if we can bring
8 up, please, 4357.

9

10 What I am showing you on the screen is the part 2
11 index to the list of police statements that were taken,
12 many of which I have mentioned already, but you can see
13 from this list, if we just scroll through, please, 457
14 (sic) through to 4361 -- just pause there, please -- so
15 that would be -- ex-residents or others who could
16 corroborate what ex-residents had to say run to
17 151 pages of statements. Then you have statements taken
18 from the members of the staff of Barnardo's and there
19 are 37 staff members from Macedon and/or Sharonmore who
20 provided witness statements. If we just scroll on down
21 now, please, you can see the list of names, and
22 additionally BAR13 provided a statement, although she
23 was assisting with the investigation, not herself
24 involved, and I think the same applied for -- I know
25 that **BAR 89** was working as ,

1 but it also appears she worked in Sharonmore for
2 a period. So those 37 statements from members of staff
3 run from 4515 to 4642 in the bundle. Perhaps if we look
4 at -- begin looking at one or two of those before lunch,
5 if that's acceptable. I appreciate we have covered
6 a lot of ground.

7 If we could look at BAR35's statement at 4539,
8 please, there were a number of individuals who were
9 spoken to by police who worked alongside BAR1 and BAR2
10 in Macedon. One of them was BAR35. In fact, she was
11 , as it were, in cottage . So she
12 was of BAR1, if I have understood the position
13 correctly. She explained she:

14 "... came to work there in initially
15 as , then as
16 during the time BAR7 to be ,
17 and I continued working in Macedon until it closed.
18 I transferred to Sharonmore to work in the Ravelston
19 unit. Still working when I left in

20 My memories of working in the cottage, it is
21 so long ago. I worked there with BAR 76 , BAR1
22 and BAR2. BAR 6 also worked there at one stage
23 and she was . BAR 90 also
24 worked part-time in the cottage."

25 She then lists the children that she can remember.

1 It is the same children you have seen over and over
2 again: family, family, BAR 39

3 **BAR 39:**

4 "I can't remember the others. I felt BAR2 was quite
5 naive and immature for his job in the home. The kids
6 did like him. BAR47 seemed to almost idolise him. She
7 would follow him about a lot and would be with him quite
8 a lot. It was noticeable that she had a crush on him.
9 Most people I am sure would have been aware of it. She
10 was always about wherever BAR2 was, to be honest. In
11 the cottage only one member of staff slept over
12 in the cottage. There was only one bedroom there. The
13 other staff would finish at 10.00 pm. I did sleep-over
14 duty on my own in the cottage, as did BAR1 and
15 BAR2."

16 She refers to a hatch in the staff bedroom in the
17 cottage which led into one of the children's
18 bedrooms. I think it is HIA216 claimed she was watched
19 in there by BAR2:

20 "It was opened from the staff bedroom side. I don't
21 remember which child slept in the next room. Mainly
22 based at the cottage. I probably did work in the main
23 house. I remember that BAR1 to me seemed eccentric.
24 She struck me as an unhappy person. I worked with her,
25 but didn't socialise with her. **BAR 76** was

1 friendly with her. The kids did bath in the
2 cottage. I would have went in and given them a towel
3 and soap, but I didn't physically touch them. Staff did
4 encourage the children to bath. I would have run their
5 bath for them. I can remember occasions when boys
6 jumped into the bath together. The children nicknamed
7 her I don't know where it stemmed from.
8 She used to tell them stories. I thought they were
9 ghost stories. I thought the lights went out as part of
10 the story telling. I remember her telling the children
11 stories downstairs in the living room. They were played
12 in the evening time. It seemed to get the children
13 excited, which was the last thing needed around bedtime.
14 It must have been done regularly, because I can remember
15 them. I remember the children were frightened by the
16 and the ghost stories. There was a mixture
17 between kids being frightened and enjoying it. I only
18 remember BAR1 being involved with these games. I can
19 remember the kids running around in the dark. It was
20 a night thing. I never got involved. They were of no
21 interest to me. BAR1 was and
22 . She would have ..."
23 So she is saying BAR1 was to her. I am
24 not sure if that's a reference to rather than
25 but:

1 "She would have settled the kids for bed. I believe
2 that BAR1 and BAR2 worked in the main house at a later
3 stage. I don't remember working with either of them in
4 the main unit. I know BAR1 had a room in the attic."

5 Then she talks about BAR3, finding him strange:

6 " and he gave me the creeps.
7 I didn't like him and I stayed away from him. I didn't
8 really bother with him."

9 If we scroll down, please, there's reference to BAR3
10 pretending to be , and then reference to the
11 money being stolen and having hit HIA101 with a spoon.
12 She points out:

13 "We were I remember spoken to by BAR24 about the
14 punishment."

15 Scroll down a little further, please. That's the
16 end of her statement.

17 Would now be a good time to take a break?

18 CHAIRMAN: Yes. 2 o'clock.

19 (1.00 pm)

20 (Lunch break)

21 (2.00 pm)

22 MR AIKEN: Chairman, Members of the Panel, good afternoon.

23 Before lunch we'd looked at BAR35, who worked alongside

24 BAR1 in Macedon, and I want to look at **BAR 76** ,

25 who was another lady involved in the smacking episode

1 with HIA101 in [REDACTED]. If we can look, please, at 4578.
2 Scroll up a little bit so we can see the -- so **BAR 76**
3 then , formerly .

4 She explains she started in and worked
5 in the cottage for years before she left in
6 . You can see she said:

7 "BAR35 was of the cottage. I worked
8 in this cottage with BAR35 and BAR1. BAR2 also
9 came to work in the cottage."

10 What I pause to observe there, Members of the Panel,
11 is that whatever it was that was going on in the
12 cottage that BAR1 was doing with the children, it at no
13 stage was seen as serious enough, whatever it was, to be
14 reported it seems by BAR35 to the superintendent, by the
15 superintendent to the Assistant Divisional Director, if
16 that was the right term at that stage, or the Assistant
17 Children's Officer, because there doesn't seem to be any
18 suggestion that this, whatever was going on in terms of
19 ghost stories and lights off and frightening the
20 children, however that is characterised by the children,
21 before one adds in a layer of allegations of sexual
22 assault, does not seem to have been something that was
23 causing any concern for the staff members who were
24 around her and certainly her boss, as it were, in terms
25 of it being reported up for something to be done.

1 You can see she identifies the other two members who
2 worked part-time and then **BAR 81** worked in the cottage.
3 This is **BAR 81** , whose children then feature in
4 the Macedon Inquiry. She believes she started around
5 the same time as BAR1. You can see -- I made the
6 reference earlier -- she had history with her in terms
7 of training at Rupert Stanley and then working in
8 . Then she describes how:

9 "At one stage whenever BAR1 went to work in the main
10 house to work with the senior girls, she left the
11 cottage to go to work in the main house before I left
12 Macedon."

13 So this lady, **BAR 76** , is saying,
14 "I worked in the cottage for the entire time that I was
15 there", which was and she is saying that BAR1 had
16 moved over to work in the main house before she herself
17 had finished her time in Macedon still in cottage .

18 She then identifies the same children that she
19 remembers. If we scroll down, please, she talks about
20 the overnight regime that would have taken place and her
21 own background. If we scroll on down, please, she says:

22 "The older children, I would tell them to go up and
23 bath themselves. With the younger children I would run
24 the bath for them and leave their clothes for them.

25 I can't remember actually washing their hair or bathing

1 them myself. In the evenings I believe there was two
2 members of staff on in the cottage. If there was
3 a part-timer coming in, then there would be three us.
4 I worked regularly with BAR1 and BAR2 in the cottage.
5 I remember that the children did call BAR1
6 . If the children were up to
7 something, BAR1 would look at them a certain way, but it
8 didn't scare them. The children would say that she had
9 given them the They would laugh and didn't
10 seem scared. BAR1 was a great story teller. She used
11 to tell them stories, but I don't remember what they
12 were about. They listened and they loved her to tell
13 them stories. The children would be all in a group in
14 the cottage. They loved the ghost stories that she told
15 them. BAR1 was such a good story teller. Sometimes
16 they just loved to be frightened. During the story
17 telling I can only remember that the lights were on.
18 I have never seen her chasing the children. It was only
19 in the evening that I remember the story telling, not in
20 the bedroom. Any time she told the stories when I was
21 there it was always in the TV room in the cottage. She
22 didn't want to frighten them. As I -- as far as I can
23 remember BAR1 always wore Oil of Ulay. She always put
24 it on her skin. It wasn't that often BAR1 told ghost
25 stories that I remember."

1

2

The next thing she would take a buck leap at them and

3

chase them. Most of them seemed to beg her to case

4

them, especially the younger ones. She was strict with

5

the children. It was BAR1's nature. It was only a game

6

as far as I was concerned. Some of the kids would beg

7

her to tell them ghost stories. There wouldn't have

8

been a noise from the kids when she told them ghost

9

stories. You could hear a pin drop. It was that quiet.

10

I can remember BAR1 telling the children ghost stories

11

downstairs in the sitting room before bedtime when they

12

were watching TV. They would have turned the lights out

13

and she would take a buck leap after them. The kids

14

would have been running away from her squealing and

15

laughing. The kids seemed to enjoy it and would ask for

16

more. BAR1 did sleepover duty and slept in the

17

sleepover room in the cottage. She had a bedroom in the

18

house. So did I.

19

BAR1 would have had to bathe the kids, as it was

20

part of our job. The kid would sleep together in twos

21

and threes in the same room in the cottage."

22

So if I can pause there to observe and ask you to

23

consider, Members of the Panel, that you have a series

24

of members of staff who see this happening. They

25

describe it in different ways, but the events that are

1 taking place are in front of the staff, and then when
2 you come to consider the allegations that are made
3 twenty years later of sexual assaults occurring during
4 these episodes, that means that that is happening you
5 may consider in -- at the time when there are other
6 staff members or at least one other staff member there
7 if this is before the children go down to bed at
8 night-time and the sleeping rota comes after the
9 children are already asleep. So that is **BAR 91**

10 **BAR 91**

11 If we can look, please, at **BAR 92** at 4605,
12 if we scroll down, please, so she is working in Macedon
13 between late and early . She remembers the
14 sleeping over arrangements. She talks about BAR1's own
15 room that she had in the main house. If we scroll down
16 further, please, you can see that she says:

17 "I worked ..."

18 Just pause there, please:

19 "I worked overnight with BAR1 often. I knew her
20 well. The kids did call her She used to
21 give them . I can remember an incident in
22 the kitchen."

23 She then describes:

24 "BAR1 said to HIA101 in the kitchen that she was
25 going to give him .

1 and BAR37 she was checking on. There was always
2 an issue about BAR37 that he
3 . BAR1 always seemed to have BAR37 near her
4 and take a particular interest in BAR37. I always
5 associated BAR1 with BAR37, HIA101 as well. She
6 presented as motherly of them. I didn't work with BAR1
7 in Sharonmore."

8 She goes on to talk about BAR2 and how he was
9 friendly. You can see at the bottom she says:

10 "I had no idea he . He was
11 quite and
12 ."

13 Scroll down, please. You can see:

14 "BAR47 seemed infatuated by BAR2. She seemed to
15 have a crush on him. BAR47 was attentive to BAR2.
16 I can remember that she made him cups of milky coffee.
17 BAR2 would use BAR47 to control the other children.
18 BAR47 was older than the younger group. She certainly
19 controlled HIA516 and HIA101."

20 She refers to the nature of the relationship between
21 BAR47 and BAR2. You can see this reference at the
22 bottom is to the incident where two rape convictions
23 resulted:

24 "When I came back in , I was one of
25 a number of staff who went to Ballylough with the kids.

1 I think there was a Portakabin in the grounds.
2 I remember that BAR2 and **BAR 93** were both there.
3 I do remember BAR29 throwing tablets at me and bringing
4 BAR29 back to Macedon the next day in my car. BAR29 was
5 going nuts and I had to sleep overnight with her before
6 bringing her back to Macedon. She insisted that I stay
7 overnight with her. I wasn't supposed to be on duty
8 that night. She was quite scary that night. To be
9 absolutely honest I was frightened of BAR29 that night.
10 I was terrified of her at the time. She was off her
11 head. The girls slept in the main building together.
12 I have images in the evening of BAR2 and another female
13 staff member trying to restrain BAR29 in the main car
14 park outside. I saw it as I drove through the gates.
15 BAR2 explained to me that she had thrown a wobbler and
16 had lay down in the middle of the road."

17 Then I want to refer just to one section in the
18 statement of BAR40. I have mentioned her a couple of
19 times. She was who worked with the
20 . There's a very long statement from her,
21 which I will leave the Panel to read. It is at 4549 to
22 4556. I want to look at 4553, please.

23 She explains her role and she explains the
24 seriousness of it later on in her statement, because she
25 was privy to confidential information working with the

1 . You can see she remembers a particular
2 boy who was in cottage telling her that she (sic) was
3 frightened of her and called her . BAR1 this is.

4 "'We all hate her.' I mentioned this to BAR1
5 lightheartedly and she told me that, 'It was just a game
6 we play when I can't get them to settle into bed at
7 night. I give them ' and she demonstrated
8 that to me.

9 I told her she was
10 frightening the life out of them. I know BAR1 did bathe
11 the boys, but I don't find this unusual, as it would be
12 part of her job description to ensure the younger
13 children were bathed."

14 Then she just describes her and her general way of
15 going. So she is saying as someone working there that
16 she didn't regard it as unusual for bathing, but she
17 gives then this one incident where she describes:

18 "I saw her and **BAR 76** manhandle **BAR 94**
19 **BAR 94** in the front hall at the front door outside my
20 office. He was shouting, cursing and crying. BAR1 told
21 me he didn't want to go to school, but he would be going
22 and that he wouldn't win. They dragged him roughly back
23 down the main hallway. I hadn't seen her act in this
24 way before or after this incident. **BAR 23** also
25 witnessed this. It seemed to me she must have had some

1 strength to handle **BAR 94** , as he was a .

2 She had and she was I remember quite

3 ."

4 Makes reference to:

5 "She carried her keys inside , because that
6 was the safest place for them."

7 Then if we can look at the statement of BAR36,
8 please, at 4620. We looked at an earlier statement from
9 BAR36 earlier today, . She explains her role when
10 she came to work in Macedon in . If we
11 scroll down, please. Just move on to the next page,
12 please. We can see here she talks about who is working
13 in the units and she says:

14 "BAR1 and BAR2 were working in the main house. BAR1
15 then went to the unit in Sharonmore. She been
16 appointed as of that unit before
17 I arrived. BAR2 went to work in Ravelston."

18 She then explains:

19 "BAR1 was the only staff member who had a room in
20 the big house. as well."

21 It's this section at the bottom:

22 "She was before
23 I arrived. She seemed to me not to be capable of
24 reaching the required standard for that position. She
25 was capable of performing the basics of the old style

1 caring work. The Sharonmore project was aimed at
2 changing the old styles. To the care and control issues
3 we were adding task focused work. Staff needed to
4 develop a range of skills and knowledge to cope with the
5 task focused work. It was setting professional
6 standards. I didn't feel that BAR1 was up to the
7 required new standards. **BAR 75** was her
8 , as he was of the
9 Ballyduff unit. She seemed to me to have difficulty in
10 working with and controlling the children. As a result
11 of these issues **BAR 75** and I recommended
12 disciplinary proceedings. I am aware that she received
13 a written warning and that her pay increment was
14 stopped.

15 ."

16 No more dealings. Then she said:

17 "BAR2 I felt related well to the children and to
18 other staff. He appeared genuinely interested and
19 concerned in the children. He
20 acted the lig, but could be sensible too. It appeared
21 to me that BAR47 seemed to have a crush on him. She was
22 quite distraught when BAR2 left. She was certainly
23 upset around that time. All staff, including group
24 leaders, did shifts, which included sleepovers."

25 She then refers to the disclosure in by BAR47

1 about **BAR 30** to BAR8.

2 Then you can see the reference to BAR29:

3 "... someone with awful ..."

4 Just scroll up a little, please:

5 "... awful rages, distressed and disturbed."

6 If we just scroll down, there's a reference then to
7 HIA216.

8 Now I just want to finally look at **BAR 75**
9 statement at 4626, please, and it's to the section -- if
10 we scroll down, please, through the statement, we will
11 come to -- so he spent a little time in the second
12 cottage. If we move on down, please, he talks about the
13 close relationship between BAR47 and BAR2. If we scroll
14 down, please. Move on down to the next page. Now if we
15 just pause there:

16 "I believed it was -- I can remember the kids in
17 Macedon referred to BAR1 as I believed it
18 was because of the ghost stories. When I went to Maced
19 on , BAR1 already had an established reputation as
20 being the teller of ghost stories. I never witnessed
21 her telling ghost stories. I can remember tackling her
22 about this issue I believe in Macedon. It was made
23 clear to her not to tell the children ghost stories.
24 I can remember kids in the Ballyduff unit who had been
25 in Macedon ..."

1 So I think this maybe is a reference to Sharonmore:

2 "I can remember kids in the Ballyduff unit", which
3 is Sharonmore, "who had been in Macedon asking for her
4 to tell stories. It was put a stop to in the Ballyduff
5 unit. In in Macedon bathing was not an issue.
6 Staff didn't bathe the kids. They were of an age that
7 they could bathe themselves."

8 That's his recollection in .

9 Now, as I said to you, Members of the Panel, there
10 are 37 statements from staff that were taken as part of
11 the Macedon investigation. If we look at 4259, please,
12 you will see the staff list of staff who were working in
13 Macedon from December until . You can see,
14 perhaps in contrast to some other modules where we have
15 been looking at, the volume of staff who were working in
16 terms of staff ratios is quite significant numbers. If
17 we just scroll down a little further, please.

18 As I indicated, BAR1 and BAR2 were interviewed three
19 times each and then on 30th April 2001 -- so the major
20 part of the investigation is taking place in 2000
21 through 2001 -- Detective Constable Boyce submits his
22 120-page report. He recommends prosecutions of BAR1,
23 BAR2 and BAR3, if he could be found,

24 for a raft of
25 sexual offences. As far as BAR52 is concerned he took a

1 different view, that there was no reasonable prospect of
2 success.

3 On 4th May 2001 then Detective Inspector Glass in
4 a strongly expressed endorsement recommended that the
5 three, BAR1, BAR2 and BAR3, be prosecuted. The chief
6 superintendent agreed. On 14th February with this very
7 extensive file the DPP issued directions that we have
8 looked at this morning for other purposes, but they run
9 from 4003 to 4014. In effect BAR1 was to be prosecuted
10 for 105 charges and BAR2 for 60 charges. In respect of
11 the 105 that's ten individuals that we have gone through
12 and in respect of BAR2's 60 the six individuals.

13 That bought about ultimately a trial before the
14 Crown Court sitting at Belfast, which took place in
15 2004. On 23rd June 2004 BAR1 and BAR2 were convicted
16 before the Crown Court sitting at Belfast. We have
17 looked at the certificates of conviction earlier. They
18 can be found in the bundle at BAR-6747 to 6773.

19 Of the 105 counts that BAR1 was charged with she was
20 convicted of 52 of them against eight individuals:
21 HIA101, BAR46, BAR37, BAR38, HIA216, BAR29, BAR39 and
22 BAR56. BAR47 didn't give evidence and, as we will see
23 in the Court of Appeal judgment, HIA516, the jury did
24 not believe his evidence so as to convict.

25 BAR2 was convicted of 17 offences of the seven -- of

1 the 60 counts that he faced against four individuals:
2 HIA101, BAR29, HIA216, BAR38 and not on the allegations
3 of BAR37, and BAR47 refused to give evidence.

4 On 21st September 2004 the trial judge,
5 Mr Justice Weir, as he then was, gave judgment. That
6 can be found in the bundle at 8636 to 8642. The result
7 of that was that BAR1 was sentenced to a total of 11
8 years' imprisonment. That can be found at 6769. BAR2
9 was sentenced to 14 years' imprisonment because of the
10 offences he was convicted of, including two rapes, one
11 on BAR29 and one on HIA216, both at that
12 holiday.

13 Now in response to the judgment in September 2004 in
14 October Martin Ruddock, principal officer at Barnardo's,
15 conducted on a review, and we have touched on it in
16 passing prior to now, entitled "Macedon: Review of Judge
17 Weir's Comments" and sought to identify the learning
18 points from Macedon. If we can look, please, at 054, he
19 says at the bottom of the page, please -- he goes
20 through various issues, and the Panel will have the
21 opportunity to consider this in peace and quiet, but:

22 "Management failed to identify and address the level
23 of concerning behaviour by residents and evidenced in
24 files of the victims and other children resident in the
25 home."

1 Because this, as you know, is post -- just shortly
2 after the convictions. If we scroll on to the next
3 page then, please:

4 "In reviewing the files, I have observed a vast
5 amount of information about absconding, criminal
6 activity, behaviour and violence to staff and peers.
7 Practice at the time has assessed the behaviours as
8 a sign of the disturbance of the resident whilst present
9 practice would require this information to be
10 aggregated, linked and addressed as a possible sign of
11 a culture of abuse."

12 So you can see the two, if you like, conflicting
13 mindsets that he's setting out, and obviously the Panel
14 will resist hindsight and look at what was the
15 understanding of how matters were at the time this is
16 taking place, which is in the late '70s as opposed to
17 2004, and whether this is a systems failure will be
18 a matter for the Panel to consider, given the issue of
19 hindsight and judging matters by the standard of the
20 day.

21 He looked at the issue of recording. You can see
22 under "Recording" he says:

23 "Standardised recording procedures were not
24 developed, though the records of ex-residents evidence
25 that something was seriously wrong. It is difficult to

1 identify how staff and managers failed to review
2 evidence from personal files and ask questions about the
3 level of concerning behaviour and what they should be
4 doing to address it."

5 So he seems to be saying in layman's terms there was
6 insufficient joining up of the dots, whether it be
7 because of abuse or whatever the other reasons might
8 have been for the level of distressed behaviour.

9 He then examines the issue of recruitment and makes
10 the point -- I will allow you to read that in peace and
11 quiet, but he goes on to explain, looking at the
12 recruitment procedures -- he says:

13 "It is my view the evidence demonstrates that
14 management failed to effectively review evidence from
15 children's records and no doubt elsewhere to show
16 something at Macedon was wrong. This comment, however,
17 is made with hindsight and knowledge about abusive
18 practice gained through numerous reviews over the last
19 twenty years."

20 He makes reference to concerns at the termination of
21 BAR3's departure and then the book we have looked at
22 about the failure to act, and he then makes
23 reference to the fact that there has been, as time has
24 gone on, a complete overhaul of practices, and he
25 recognises that:

1 "We also have potential failures in the recruitment
2 of other staff, befrienders and volunteers",

3 and then says:

4 "Recruitment is now completely overhauled."

5 He then looks at the issue of supervision. He
6 makes, if we scroll down, please, having -- makes the
7 same point about things not being linked together and
8 addressed more appropriately, but if we move on to 057,
9 please, he says:

10 "I do not consider our present practice requires
11 further enquiry."

12 It occurred to me there was something of a prophet
13 about this, because it goes on to say:

14 "I can understand public calls for an inquiry into
15 how the degree of management failure occurred and how
16 this would be in the public interest if it was to take
17 place."

18 Then he makes the point that it was:

19 "... historical childcare and political context of
20 the period",

21 and makes the point no doubt its central theme
22 would be the context of BAR24's letter, which would
23 inevitably link to what happened at Kincora.

24 He observes about inspections then and how at that
25 stage all inspections -- all facilities were being

1 regularly inspected by external bodies, and then a
2 section on empowering children, and makes the point
3 that:

4 "Attitudes to children have since the 1980s changed
5 radically, as have greater awareness of equality issues
6 and understanding of sexual abuse."

7 If we scroll down, please, then he talks about the
8 need to have better whistleblowing or the use of
9 whistleblowing systems and looks at learning and
10 development at 058. Points to the enormous changes.
11 Then he says this in conclusion if we move on to 059,
12 please:

13 "Please see the key learning points from 'Lessons
14 about Macedon', which are copied below.

15 1. We cannot defend the practice in this case.

16 2. We have attempted to the best of our ability to
17 respond to the needs of ex-residents in Macedon and
18 ensure that justice was done.

19 3. We believe our current practice and procedures
20 to be very different to the circumstances described in
21 Macedon.

22 4. We are conscious that the policies and
23 procedures are only as good as the people who operate
24 them. For this reason our 'Safe Operation Framework --
25 Safe Organisation Framework' sets out to ensure that the

1 protection of children and young people is central to
2 our culture as an organisation and the robust procedures
3 are underpinning strong management oversight."

4 He then talks about the principle at 6, that:

5 "We take all complaints seriously and work on an
6 ongoing basis to ensure that service users and staff are
7 enabled to speak out in circumstances where the normal
8 management systems are not working."

9 Then he says this of the Barnardo's policy:

10 "We are prepared to 'believe the unbelievable' that
11 the risk of abuse of service users by people who work
12 for us necessitates ongoing vigilance to ensure that our
13 systems are as good as they can be."

14 That's why he considered that having an Inquiry
15 wouldn't assist the practice.

16 Now that review, as it were, by Martin Ruddock is
17 done just after the convictions. BAR1 and BAR2 appealed
18 their convictions and significant evidential
19 developments occurred before the appeal was heard. This
20 included a series of letters that BAR37 wrote from
21 prison in the early part of -- the end of 2004 and the
22 early part of 2005.

23 During the investigation and Macedon trial
24 Barnardo's provided aftercare support to the
25 ex-residents who were involved in the criminal process.

1 As far as BAR37 was concerned, and **BAR 89** was
2 his link, and BAR37 was on remand -- I think he was a
3 sentenced prisoner for some offences but on remand for
4 allegations made by **BAR 38** children, and therefore
5 he is in prison at that time the jury are deliberating
6 the verdict.

7 If we just contextualise this, if we look at 9485,
8 please, he is writing here on 23rd June 2004. I can say
9 that because in the Court of Appeal transcript -- and
10 I am not going to go into it for each one of these to
11 show that -- the two sets of lawyers it seems, the Crown
12 and the defence, worked on the letters, which
13 unfortunately weren't dated, in order to as closely as
14 possible identify the date when they must have been
15 written. In this letter the jury have just gone out and
16 they are able to date the letter of 23rd June 2004.

17 He is nervous waiting, as he says, concerned about
18 his own safety and so on. So this is the first letter
19 that's available in a chronology of eight. Then five
20 days later there's another letter at 9487 where he is
21 writing to **BAR 89** again after the guilty
22 verdict, but expressing his anger that -- he is happy
23 about BAR1, but not BAR2:

24 "A very serious charge was dropped for him and I was
25 the victim. I want Geoff to come here and face me and

1 tell me why that charge was dropped."

2 I don't know so much dropped as BAR2 was acquitted
3 on the charge of buggery:

4 "Very serious sexual assault on me and should never
5 have been dropped. I feel very let down by Geoff,
6 because he promised me that BAR2" -- Geoff was DC Boyce,
7 Detective Constable Boyce, the investigating officer --
8 "that BAR2 would pay for this sexual assault on me."

9 He then goes on to recount his view of what he says
10 of the offence that he alleges.

11 Then on -- in and around 2nd August he writes, if we
12 look at 9488, another letter to **BAR 89** where he feels
13 that she has not written:

14 "Don't you care any more? I really miss seeing
15 friendly faces. I don't get out much. I am innocent",

16 and so on, and includes a letter that he wants her
17 to pass on to Geoff. That's Detective Constable Boyce.
18 If we scroll on to the next page, you can see that
19 letter, where he is explaining:

20 "I will not be cooperating in this case any more.
21 My heart is broken since you sent me the form of
22 charges. I have been in a terrible state. That bastard
23 BAR2 will never pay for what he did to me. After the
24 help I put -- after the hell I have put myself through
25 I feel very upset and let down. How could they do this

1 to me? I thought I gave my evidence well. How could
2 they not believe me? I put myself through hell on that
3 stand and for what? For them to let that bastard off
4 for everything he did to me. You don't know what
5 a terrible state I have been in since I have been here",
6 and no-one has come near him he says. It looks
7 like from a diary before the Court of Appeal there may
8 well have then been a prison visit from **BAR 89**
9 to him on 12th August 2004, and then further letters
10 written on 17th August. If we look at 9490, so he
11 expressing the view that **BAR 89** has turned her back on
12 him. They were able to date this what appeared to be
13 17th August 2004. He is still expressing his
14 unhappiness about **BAR2** getting away with what he had
15 done to him and about people turning their back on him.
16 He has pleaded with her to "come and see me".

17 Now there is then -- those are all written in 2004.
18 If we look, please, at 9483, we will see a letter
19 written, which is believed to be in 2005, and we are
20 coming very shortly to the crucial letter, but:

21 "You have turned your back on me. I think it is
22 a terrible cruel thing to promise on a Christmas card to
23 say you are going to come see me and then not come near
24 them. **BAR 13**", as in **BAR13**, "also sent me a Christmas
25 card saying she would come and see me and I have not

1 seen her. Are you both trying to hurt me or just
2 playing games with me?"

3 Then he talks about the allegations that are made
4 against him by **BAR 38** children. If we scroll
5 down, please, you can see a line here which features in
6 the cross-examination that takes place in the Court of
7 Appeal:

8 "Also because -- and the -- I went into the court to
9 be questioned by defence. Also I am suspicious how
10 BAR38" -- that's **BAR 38** -- "spent so much time with
11 HIA101 and his girlfriend during the trial. Did she get
12 her ideas from him, maybe hearing or being told about
13 HIA516? Did BAR38 not get enough compensation from
14 Barnardo's and thought of a way to get more? I did not
15 do this and there is going to have to be more than their
16 say-so to prove it."

17 If we just scroll on to the next page, please, the
18 letter continues in that vein about how he sees his
19 present position.

20 Now then a letter that's believed to be written the
21 next day, 26th January 2005, and the reference that
22 establishes that is at 6996 in the transcript, and what
23 is for certain is that the solicitors for BAR2 sent the
24 letter, if we look, please, at 4218, that had been given
25 to them by their client that he had received to the DPP

1 on 23rd February 2005. So that -- by that date it had
2 travelled to the DPP, and what is said in the letter
3 then is:

4 "Hi, BAR2,

5 I want to assure you that BAR1 is innocent and it
6 would not surprise me if you were innocent as well.
7 A great injustice has taken place and I am the one that
8 will come forward to tell the truth. Why? Because the
9 Lord has saved me and changed me and put the truth
10 inside me. I'm sorry, BAR2, for the things I said about
11 you. All I have about you are good memories. Who am I
12 you may be thinking. Well, let's just say you were
13 a great help to me that day you took me to hospital
14 after I fell off the roof."

15 Now you will recall one of the allegations was that
16 on taking him that day to the hospital he sexually
17 abused him in the car on the way there:

18 "I really think HIA216 and BAR29 are lying about
19 you, because they are lying about BAR1. I don't know
20 for sure, but you were not the type to do those things."

21 So that's the two rapes he is describing in

22 :

23 "I am going to have to get in touch with BAR1's
24 solicitor. The others may stick to their story, but
25 I will not, because, as I say, the Lord has changed me

1 and I will not live with this lie any more. I am sorry
2 for where you are. I don't think you should be here.
3 Let's hope people believe me and the Lord loves you,
4 BAR2, and can make a difference in your life and change.
5 You remember that.

6 BAR37."

7 CHAIRMAN: What is the date of this letter again?

8 MR AIKEN: This letter is believed to be 26th January 2005.

9 I take that from the Court of Appeal transcript where
10 Mr Creaney QC, deceased --

11 CHAIRMAN: Yes.

12 MR AIKEN: -- was explaining on each of the occasions how
13 the lawyers had --

14 CHAIRMAN: Uh-huh.

15 MR AIKEN: -- established the dates. Then interspersed
16 there's a letter which is said to be of 16th February
17 2005, which is a letter written to Marese again at 6962.
18 Sorry. 6962 is where we get the date. At 9481, please.
19 So the last letter that we looked at about **BAR 89** had
20 been one criticising her for being uncaring and not
21 being in touch, and then this letter:

22 "Sorry to hear you are not feeling great. I am
23 really sorry for the last letter. I am just lonely here
24 and felt really abandoned."

25 Then wishing her well and saying:

1 "I have seen BAR2 about the place, but made sure he
2 could not see me."

3 Now if the references before the Court of Appeal are
4 correct, this letter that we are looking at now was
5 written after the letter that was sent to BAR2. Just
6 scroll down, please. So continues to talk about his
7 hurt.

8 CHAIRMAN: Perhaps we can come to the relevant letter.

9 MR AIKEN: So if we look, please, at 9477, this letter is
10 again, like all of them, not dated, and we will see
11 shortly that it's been written at some date prior to
12 23rd March 2005, although before the Court of Appeal it
13 was being attributed as 31st March, but you will shortly
14 why I say 23rd, and those before the Court of Appeal
15 won't have necessarily known that. So he says:

16 "Hi, **BAR 89**

17 You are going to be very disturbed by reading this
18 letter, but you must. Something wonderful happened to
19 me since I have been here. I really did have
20 a supernatural experience, as the Lord touched me and
21 saved me. I know I said before that I was saved, but
22 I was not. I have been truly touched and changed. You
23 know, **BAR 89**, I was a terrible liar. I told so many
24 lies all the time. I could lie my way in or out of
25 anything. I have to tell you that I am not proud but

1 ashamed of this, which brings me to the whole point of
2 this letter.

3 Oh, **BAR 89**, I have told a very big lie that I must
4 now put right. I am not the only one to tell this lie.
5 I don't know why the others lied, but you can be sure
6 they are. I have to tell you, **BAR 89**, the thought of
7 no-one else believing me, because I have told so many
8 lies in my life, is a worry, but I must do this. You
9 see, **BAR1** is innocent of any sex charges that she was
10 convicted of. 'Rubbish' you may say, but I am telling
11 you she never did anything like that to the kids. She
12 frightened the kids. She done the in dark
13 rooms, nipped me and really frightened some of the kids,
14 but never touched anyone sexually. Now why the others
15 are lying I don't know, but I will explain to you why
16 I did. **BAR1** was the nightmare of my childhood. She
17 really scared me very badly, and when I got the letter
18 from **BAR13**, I thought this was a way to get my own back
19 on her.

20 You see, **BAR 89** , was real, but the
21 likes of **BAR46**, **HIA216**, **BAR39** were never frightened of
22 **BAR1**. They were the ones that got her to give
23 , ran around the dark rooms laughing their heads off,
24 but I was put into the rooms and I was not laughing.
25 I was sitting in a corner shaking with fright. When she

1 got me, she nipped me, but never did the things that
2 were said about her. When she bathed me, she nipped me
3 okay, but never made BAR38 and me do things. She knew
4 I was very frightened of her and I think she enjoyed
5 frightening me, but she scared me very badly. I am
6 frightened of the dark today because of her antics.
7 When BAR38 was making out her statement, she was in
8 touch with me and I told her about the bath and what to
9 say. Other staff threatened me with BAR1 and told me if
10 I did not do such and such, they would go and get her.
11 Also the Rathgael incident" -- that's her being -- him
12 being sent to Rathgael -- "lived with me for years. It
13 was because of her lies about the cup of tea that I was
14 taken away."

15 This is an incident where tea was thrown over BAR1:
16 "She did throw a full hot cup of tea in my face, but
17 she lied. When I was taken to Rathgael, I was bullied
18 very badly and I blamed her. I was only a wee boy, ,
19 and no-one from the home came to see me at all except
20 one. I was so frightened there and had no-one to turn
21 to. I was taken away from the only home I knew and put
22 in with a lot of strangers. For a little boy this
23 one -- this was one of the worst times of my life.
24 I remember to that day I came home from the youth club
25 and I had went to the toilet within myself and the staff

1 sent for BAR1 and I was standing there screaming. You
2 see, that's how much I was frightened by BAR1 all my
3 childhood. I knew the others may act like they were
4 frightened by her, but they were not.

5 Oh, **BAR 89**, I remember BAR46 and BAR39 going up to
6 BAR1's room at night and banged on her bedroom door to
7 get her to come down and give . Understand
8 they saw it as a big laugh. **BAR 89**, I am now going to
9 have to come forward and explain why I made the things
10 up that I did and why. The others may stick to their
11 lies, and you can be sure they are lies, but I must now
12 tell the truth, because one day I will have to stand
13 before the Lord like everyone will, and this is one
14 thing of my terrible past I can put right and I must.
15 The Lord has helped me to forgive BAR1 for the things
16 she did to me and the fear she put me in. You see,
17 I was intent on revenge. I hated her and wanted her
18 locked up the way I was locked up. As I say, the Lord
19 has helped me to forgive me for all the things she did
20 to me. She was very hard -- very bad to me and I hated
21 her. I am glad the Lord saved me or I fear I would have
22 let her rot in jail. I just hope she can forgive me,
23 but, **BAR 89**, she is innocent, and all the things that
24 she was convicted of, believe me, a great injustice has
25 been done. I will not stop until I get her out of

1 prison, because she should not be there. I have been
2 here in prison. I know what it is like. I am worried
3 that if the others stick to their story, no-one will
4 believe me, but I will just have to trust the Lord.
5 I have to tell you I would -- it would not surprise me
6 one bit if BAR2 was innocent as well.

7 **BAR 89**, I wanted to tell you -- let you know first
8 and explain why I lied, not that it is any excuse. I am
9 ashamed of what I have done. I cannot and will not live
10 with this lie. I have to answer for it."

11 Then he goes on to talk further about his personal
12 views of his position:

13 "I have to say I felt Barnardo's owed me something
14 as well. They abandoned me and never looked after me
15 the way they should have. I think I have to go as ..."

16 Scroll down a little further, please. He ends with:

17 "Don't let the others fool anyone anymore. A
18 terrible injustice must now be put right."

19 So that is a letter that ultimately when one -- the
20 sequence of events that seem to happen is the BAR2
21 letter is sent to the DPP and Detective Constable Boyce
22 is made aware of it. He rings **BAR 89** . **BAR 89**
23 **BAR 89** tells him, "Oh, I have been receiving letters".
24 Those letters are then produced by **BAR 89** to
25 Detective Constable Boyce.

1 If we look, please, at 9475, we see a letter on
2 23rd March 2005 where Detective Constable Boyce is
3 sending the seven letters to the DPP. You can see he's
4 copied in **BAR 79** :

5 "Please find attached seven letters that I received
6 from **BAR 89** on 23rd March 2005.

7 The letter causing me most concern is the four-page
8 letter in which BAR37 expresses that BAR1 had not
9 sexually abused him and that he had been in touch with
10 **BAR 38** BAR38 when she was making her statement of
11 complaint. He alleges that he had told **BAR 38** what
12 to say.

13 When all the letters are read in their totality" --
14 and that's why I opened them -- "it is clear that
15 conflicting statements are being expressed by BAR37."

16 Then he says:

17 "To gain an understanding of why he would compile
18 such a letter it should be viewed in context with recent
19 events in BAR37's life."

20 Then he sets out the criminal background that --

21 CHAIRMAN: Just go to the top of that again. Who is this
22 to?

23 MR AIKEN: This is to Gail White in the DPP office.

24 CHAIRMAN: Yes.

25 MR AIKEN: Just scroll up a little further, please.

1 CHAIRMAN: Thank you.

2 MR AIKEN: Then scroll down on to the next page for me,
3 please. Then he draws attention to June 2004.

4 CHAIRMAN: The matter then comes before the court I take it.

5 MR AIKEN: It does. Well, before that there is -- on 3rd
6 June 2005 the police go and speak to BAR37 and I believe
7 others, although we don't have the other statements as
8 yet, and if we look, please, at 9491, on 3rd June BAR37
9 then provides a seven-page statement, which I am not
10 going to go through now, but in which he recants.

11 CHAIRMAN: Is there a typed copy on the file?

12 MR AIKEN: There is not. This is the only version that we
13 have received, which we received overnight. He recants
14 all that he said in the letter that we have just looked
15 at, save for one passage where he confirms that some of
16 the children were not frightened by BAR1.

17 As I say, it seems from the Court of Appeal
18 transcript that others may have provided similar
19 statements, presumably each of the people he identified
20 saying they are lying. Police went to each one of them
21 and a statement was obtained confirming that they
22 weren't lying, and we are chasing down those police
23 statements.

24 He explains in --

25 CHAIRMAN: He lied about everything except --

1 MR AIKEN: Except that --

2 CHAIRMAN: -- the children weren't frightened.

3 MR AIKEN: -- the children weren't frightened.

4 CHAIRMAN: Yes.

5 MR AIKEN: Now during the appeal before the Court of Appeal

6 in Northern Ireland the court heard from BAR37,^{BAR 38}

7 **BAR 38** BAR38 and from **BAR 89** , who had been the

8 recipient of these letters, and also from then Detective

9 Sergeant Boyce.

10 The transcript has kindly been provided to the

11 Inquiry by the Chief Justice and it runs from 6774 to

12 7014 in the bundle. I want to show you, Members of the

13 Panel, in particular -- just bear with me for a --

14 I have lost the tab. If we can look, please, at 6820.

15 EPE OPERATOR: I don't have that.

16 CHAIRMAN: It's a little early, but would it help if we rose

17 for a few minutes at this stage?

18 MR AIKEN: Yes, I think so. I think I would want you to see

19 the ...

20 CHAIRMAN: Well, whenever you are ready, we will resume.

21 (3.05 pm)

22 (Short break)

23 (3.20 pm)

24 MR AIKEN: I am pleased to say, Chairman and Members of the

25 Panel, our working order has resumed. There is some

1 references that I will have to amend, but what we are
2 looking at on the screen is page 59 of the Court of
3 Appeal transcript. It is midway through the
4 cross-examination of BAR37. We are looking at
5 page 15159. I am just going to look at a short passage.

6 You can see at the bottom that counsel is asking
7 BAR37 about the letter that we looked at that contained
8 the indication that his previous evidence before the
9 Crown Court was lies. He is being asked about how -- if
10 we scroll down to the bottom, please, you will see:

11 "'You know, **BAR 89** , I was a terrible liar. I told so
12 many lies at the time'."

13 Then if we move over on to the next page, he is
14 asked about his view about that:

15 "Q. You are not proud of it but ashamed of it?

16 **A. Yes.**

17 Q. Was that truthful at the time as you wrote it?

18 **A. Yes.**

19 Q. 'Oh, **BAR 89** , I have told a very big lie and
20 I must now put it right.'

21 I am stopping there and I am asking this. Were you
22 at the time in a frame of mind that you were telling the
23 truth?

24 **A. Yes.**

25 Q. Now as a matter of fact in this court as you sit

1 here today are you saying that the others had lied in
2 court?

3 **A. Yes.**

4 Q. Did they include HIA216?

5 **A. Yes.**

6 Q. BAR29?

7 **A. Yes.**

8 Q. HIA101?

9 **A. Yes.**

10 Q. BAR39?"

11 That is BAR39.

12 "A. Yes.

13 Q. BAR46?"

14 BAR46.

15 "A. Yes.

16 Q. HIA516?

17 **A. Yes.**

18 Q. So you are saying this and you are confirming in
19 this court this is true and you are saying, 'As I wrote
20 this, I was doing so because of my religious
21 experience'?

22 **A. Yes."**

23 **Then he reads on:**

24 **"'You see'" -- back to the letter -- "'BAR1 is**
25 **innocent of any sex charges that she is convicted of.'"**

1 He stops then at the passage where reference is made
2 to her doing the frightening.

3 "Were you still in those -- in those sentences
4 under, as it were, religious feeling that you have
5 described?"

6 **A. Yes.**

7 Q. And was that then you trying to tell the truth?

8 **A. Yes.**

9 Q. 'Now why the others are lying I don't know.'
10 So he reads on the next passage we have looked at:
11 "You were trying to get your own back on BAR1?"

12 **A. Yes.**

13 Q. And before this court as we sit here you are
14 saying that was true?"

15 Scroll down, please.

16 "A. Yes."

17 He continues reading from the letter about others
18 not being frightened.

19 "Q. As you said, you were still under your
20 religious experience?"

21 **A. Yes.**

22 Q. In this court do you confirm that?

23 **A. Yes.**

24 Nicholson LJ: When you say 'never did the things
25 that were said about her', are you saying, 'She never

1 did the things that was said by me about her'?

2 **A. No. I say they were never said about her, not**
3 **just by me.**

4 Nicholson LJ: Now would you have known that?

5 **A. Because I was there I know.**

6 **Counsel: 'When she bathed me or bathed ...'**

7 **This is again referring back to the letter:**

8 **"'... bathed me, she nipped me okay, but never made**
9 **BAR38 and me do things.'**

10 **Are you still under your religious ...?**

11 **A. Yes.**

12 Q. Are you still saying the truth?

13 **A. Yes.**

14 Q. 'She knew I was frightened of her and I think
15 she enjoyed frightening me.'

16 He goes on to talk about being frightened of the
17 dark. Move through, please:

18 "I am going to stop there. What you're saying is
19 your frame of mind, your having had this religious
20 experience?

21 **A. Yes.**

22 Q. 'When BAR38 was making her statement, she was in
23 touch with me and I told her about the bath and what to
24 say.'

25 Do you see that sentence?

1 **A. Yes.**

2 Q. Were you, when you wrote that, still under your
3 religious experience and telling the truth?

4 **A. Yes.**

5 Q. Now I will come to this now and I will put this
6 to you now. Is it that before BAR38 made her statement
7 she got in touch with you, as you say there, and you
8 told her about the bath and what to say?

9 **A. Yes."**

10 Then he goes on to talk about being frightened,
11 reeding from the letter again. Scroll down, please.
12 Keep going, please. Just stop there.

13 "Q. Was that again I use the word genuinely and
14 truthfully expressing what your recollection was at the
15 time?

16 **A. Yes.**

17 Q. And that was 31st March of this year?

18 **A. Yes."**

19 It seems it was before 23rd March based on Detective
20 Sergeant Boyce being able to send it to the DPP before
21 23rd March or on 23rd March. So he would have to
22 receive it at some date prior to that.

23 "Q. Then this piece:

24 'Oh, BAR 89, I remember BAR46 and BAR39 going up to
25 her bedroom door.' I am going to have to come and

1 explain why.'" "

2 Then he's asked again:

3 "'The others may stick to their lies, but I must now
4 tell the truth.'"

5 As you wrote that, were you genuine?

6 A. Yes."

7 Then he reads more from the letter. Scroll on down,
8 please:

9 "Q. And what you are saying there is you are
10 repeating again that you told lies about her because you
11 were intent on revenge for what she had done to you?

12 A. Yes.

13 Q. And the lies that you were talking about were
14 the lies that you told in court?

15 A. Yes.

16 Q. And what had happened to you was you had had
17 this religious experience. Is that right?

18 A. Yes.

19 Q. And that's why you wanted and I use the term to
20 put the record straight?

21 A. Yes.

22 Q. And then you continue:

23 'I will not stop until the record is put straight.'"

24 Now if we just can -- the passage carries on in that
25 vein. If we move through to 73, please, which is 15173,

1 then the tide turns, as it were:

2 "A. I mean, when the letter was wrote, I was in
3 a very confused state."

4 CHAIRMAN: Sorry. Can we just go back to the previous page?

5 There seems to have been something said there by one --
6 several of the judges I think.

7 MR AIKEN: Yes. Just scroll back there, please.

8 CHAIRMAN: Yes. Just stop there. Lord Justice Nicholson.

9 MR AIKEN: Yes.

10 "Nicholson LJ: I am sorry. You are now telling the
11 court that what you told us since about 2.00 pm --
12 that's where Mr Creaney took you through the various
13 bits of the letter of 31st March to **BAR 89** about
14 others lying in court, about how you are trying to get
15 your own back by making these allegations that **BAR 38**
16 **BAR 38** had been told what to say and so on -- you are
17 now saying that wasn't true?

18 **A. No.**

19 Sheil LJ: Sorry. You say 'No'. It is a bit
20 ambiguous. You mean you are saying that it wasn't true
21 or it was true?

22 Nicholson LJ: Why didn't you tell us it was true?

23 **A. Because I was agreeing with the letter.**

24 Nicholson LJ: Pardon?

25 **A. I was going through the letter.**

1 Nicholson LJ: Yes.

2 **A. I mean, when this letter was wrote, I was in**
3 **a very confused state.**

4 **Counsel: May I take this up, my Lord?**

5 Nicholson LJ: Yes, of course.

6 Counsel: You see, you were assuring this court at
7 2.10 pm that that was a genuine experience that you had
8 had and what you were saying was the truth. That's what
9 you told this court this afternoon.

10 **A. I thought it was.**

11 Q. Pardon?

12 **A. I thought it was.**

13 Nicholson LJ: You thought it was?

14 **A. When I wrote the letter, it was a genuine**
15 **experience.**

16 Nicholson LJ: You were telling the court at 2.00 pm
17 and afterwards that it was the truth.

18 **A. What was true?**

19 Nicholson LJ: What was in the letter was true.

20 **A. It was true when I was writing it out as far as**
21 **I am concerned.**

22 Sheil LJ: Yes, but, BAR37, you were expressly asked
23 whether you had told lies about BAR1 for revenge upon
24 her and you said yes, you did. You told lies in court.
25 Mr Creaney asked you about her and you said yes, you

1 did.

2 **A. Yes.**

3 Sheil LJ: Now is that right or wrong?

4 **A. I don't know.**

5 Nicholson LJ: You don't know?

6 **A. No."**

7 **Then Lord Justice Nicholson takes it up:**

8 **"You said in the letter that BAR1 was innocent of**
9 **the charges she was convicted of. You told us that was**
10 **true. Is that true or not true? I mean, when you were**
11 **sitting there in court at 2.00 pm, did you think BAR1**
12 **was innocent or is it only now when you see the letter**
13 **you had written to the police or the statement you made**
14 **to the police that you think it is not true?**

15 **A. I don't know.**

16 Nicholson LJ: Let us put it like this. Up until
17 you saw the statement that you made to Mr Brown ..."

18 That's the 3rd June police statement that we looked
19 at recanting the letter:

20 "Up until you looked at the statement you made to Mr
21 Brown, who is a policeman, up until that moment, which
22 is just a very few minutes ago, did you think that you
23 were telling us the truth when you said that BAR1 was
24 innocent -- BAR1 was innocent?

25 **A. This letter here was written for attention for**

1 **to get someone up to see me.**

2 Nicholson LJ: Now which was written to get
3 attention?

4 **A. The letter to BAR 89.**

5 Nicholson LJ: You see, you have told us very
6 recently that in relation to the statement that you made
7 to the police officer of 3rd June that you were
8 attempting to tell the truth. The letter, which
9 I thought at that stage was referring to the statement
10 to Mr Brown, was to do with attention seeking. Were you
11 drawing a distinction between the statement you made to
12 the police, not calling it a letter, but regarding it as
13 a statement and drawing a distinction between it and the
14 letter to **BAR 89**?

15 **A. Sorry. I don't understand what you are saying.**

16 Sheil LJ: Well, when you used this phrase
17 'attention seeking', were you referring to the letter to
18 **BAR 89** or were you referring to the statement to the
19 police officer?

20 **A. The letter to BAR 89.**

21 Sheil LJ: Well, assuming that is correct, was it
22 the truth what you said?

23 **A. In the letter here?**

24 Sheil LJ: In the letter to **BAR 89** was that the
25 truth?

1 **A. No. I thought it was at the time.**

2 Sheil LJ: I thought you told us when you were asked
3 by Mr Creaney in this court now was it -- in your belief
4 was it true, I thought you gave a clear answer. I mean,
5 is the position you don't know what is the truth?

6 **A. As I say, of recent times I have been going
7 through a lot of confusion and stuff.**

8 Sheil LJ: Well, does that mean that you do not know
9 what was the truth?

10 **A. No, I know what the truth is now. Maybe during
11 that time I didn't.**

12 Nicholson LJ: Well, what is the truth now?

13 **A. The truth is what I said during the trial was
14 true."**

15 Then Lord Justice Sheil asks him about whether he is
16 on medication and the matter continues on.

17 If we move through on to 15177, he is then asked
18 about the different letter that he wrote to BAR2. If we
19 scroll down -- sorry -- if we just scroll up a little
20 bit, please, because this is the one part that's not --
21 if we just move up to the page before, Lord Justice
22 Nicholson asks:

23 **"Well, you remember me asking you before Mr Creaney
24 came to show you the letter or the statement that you
25 made to Sergeant Brown -- remember me asking you about**

1 BAR38 and how it was that she had come to say what she
2 did say, and you told the court that that was a long
3 time before the trial, that it was when BAR38 was making
4 out her statements. You weren't with her when she was
5 making her statement, but she had been told what to
6 say."

7 Then BAR37 says:

8 "Well, she asked me certain things about what
9 happened. She asked me things that really she should
10 have known about what happened in the bath and so on and
11 so forth and I told her.

12 Nicholson LJ: Well, if you hadn't told her, she
13 wouldn't have known?

14 A. Well, I found it quite strange that she asked
15 me, but she did. I mean, it did happen, but I was
16 surprised she didn't know that.

17 Counsel: Those last statements that you made to
18 this court, at this stage I have got to ask you this:
19 are you telling the truth now that you spoke to her
20 about these matters and told her things which surprised
21 you that she did not know?

22 A. Yes.

23 Q. And you have no doubt about that are you telling
24 this court?

25 A. No doubt whatsoever.

1 Q. Now I am going to continue with this, if I
2 might, my Lord.

3 Nicholson LJ: Yes."

4 He is again back in the end of March BAR 89 letter,
5 where he refers -- references to the fact that there's
6 a BAR2 letter, and then counsel draws attention to the
7 fact the letter is written to BAR2 some time in January
8 in prison to tell him -- confirming he was innocent.

9 "Isn't that right?

10 **A. Yes.**

11 Q. And I will come back to that. Was that just
12 a lie?

13 **A. Yes.**

14 Q. Why did you make up a lie to BAR2?

15 **A. Well, how would I know whether he is guilty or
16 innocent? It was other people who made the allegations
17 against him. I wouldn't know."**

18 You recall he'd made an allegation of buggery
19 against him:

20 "Q. You made an allegation.

21 **A. Yes, but he was found not guilty of them.**

22 Q. Therefore you say you don't have to bother about
23 that?

24 **A. Sorry?**

25 Q. You don't have to bother about that, because the

1 jury didn't believe you in that respect?

2 **A. Yes.**

3 Nicholson LJ: Well, I am sorry, but the jury found
4 him not guilty. So does that mean he wasn't guilty?
5 You made that up?

6 **A. No, I didn't make it up, but no-one believe me.**
7 **What I'm saying is I don't know whether he's innocent or**
8 **not. He was convicted on other people's allegations.**
9 **It's nothing to do with me.**

10 Q. When that letter was written, you weren't having
11 any religious experience, were you?

12 **A. Which letter?**

13 Q. The letter to BAR2."

14 It is from January '05.

15 "A. No.

16 Q. I want to follow the next line."

17 Then it goes on to talk about other letters. Now
18 the transcript goes on in that vein. I don't propose
19 to -- it is obviously available for the core
20 participants and for the Panel to reflect on.

21 CHAIRMAN: It appears from the extracts that you have read
22 to us that, summing up BAR37's position, prior to the
23 matter coming before the Court of Appeal he writes the
24 letters that you have shown to us in which he says he
25 had a religious experience. What he said against BAR1

1 was untrue. They were lies. He wouldn't be surprised
2 if BAR2 was innocent also, because she was innocent. He
3 then recants his admissions that they were true or his
4 purported admissions that they were true, and then when
5 he is giving evidence in front of the Court of Appeal,
6 he appears to be saying at one moment that what he said
7 was true and at another moment it is not true --

8 MR AIKEN: Yes, but one --

9 CHAIRMAN: -- and really went back to the original position
10 that he had first adopted at the time of the trial,
11 which is what he was saying about BAR1, with the
12 exception of the -- well, everything he was saying about
13 BAR1 was, in fact, still true.

14 MR AIKEN: Yes.

15 CHAIRMAN: That's the purport of the position he eventually
16 arrived at in front of the Court of Appeal.

17 MR AIKEN: Save for one respect, which is he continued to
18 agree that he told **BAR 38** what to say.

19 CHAIRMAN: Yes.

20 MR AIKEN: I will just summarise, if I may. The earlier
21 part of the transcript involves him being asked about
22 contacts between the various people who made allegations
23 and about them getting together to obtain a prize for
24 BAR8 for her services and her

25 . It is those meals together in

1 January 2005 -- sorry -- 2004 before the trial that was
2 the focus of much discussion and questioning. I am just
3 going to show you, so that it is on the record, please,
4 if we look at 15147, this is a passage before the
5 passages we have looked at:

6 "Q. When you say some of the letters would have
7 been honest and some of them would have been dishonest
8 --

9 **A. Yes.**

10 Q. -- have you any difficulty in moving from
11 honesty to dishonesty?

12 **A. No, none whatsoever.**

13 Q. None whatsoever? You can actually move from
14 saying something to someone which is honest and then
15 without any difficulty at all you can switch and be
16 completely dishonest?

17 **A. Yes.**

18 Q. Fiction?

19 **A. Yes.**

20 Q. What about fantasy? We call it fantasy. Some
21 people might call it.

22 **A. Not fantasy, no.**

23 Q. Fantasy would be where you are imagining
24 something and writing it?

25 **A. Yes.**

1 Q. You wouldn't accept that?

2 A. No.

3 Q. What you are swaying is you are either honest or
4 you are dishonest?

5 A. When I'm telling the truth, I know I'm telling
6 the truth. When I'm telling lies, I know I'm telling
7 lies."

8 Then he is asked:

9 "Q. Are you telling the truth here today?

10 A. Yes."

11 Then begins the committing to the letter that we
12 have looked at and then the turning away from that.

13 Now on 30th June 2005 the Court of Appeal gave its
14 judgment. Lord Justice Nicholson, as he then was,
15 delivered judgment on behalf of the court, if we look,
16 please, at 58982 -- sorry -- 5982, and there are two
17 Court of Appeal judgments that obviously the Panel will
18 consider, but the judgment begins:

19 "The applicants applied for leave to appeal against
20 convictions for grave offences alleged to have been
21 committed by them as members of staff at Dr Barnardo's.
22 At the close of the hearing of their applications we
23 granted leave to appeal and quashed their convictions.
24 We gave an extempore judgment outlining the causes for
25 concern which led us to quash those convictions. At

1 that time we undertook to give a written judgment
2 setting out our reasons. We have concluded that it is
3 unnecessary to expand unduly on the reasons which we
4 gave at the time, but it is important that all concerned
5 fully understand why the convictions were quashed.

6 It remains our responsibility to determine whether
7 there should be a re-trial."

8 Therefore they are going to make that determination
9 at a later date and therefore saying that it is
10 possible. Then the passage begins:

11 "Causes for concern."

12 is HIA516, HIA516. Then a summary is given of
13 HIA516. You can see in the passage at the bottom of the
14 page the Crown relied on all the individuals as mutually
15 supportive of the other. Originally there were stay
16 applications made before the then Chief Justice Lord
17 Kerr. If we scroll down, please, at the close of the
18 Crown case significant facts had become established.
19 A request was made for a direction on counts 1 to 12
20 relating to HIA516, if we scroll down, please, and then
21 there is a recording of the 1997 material, papers being
22 referred. We have looked at the file. Papers go to the
23 DPP in 1997 and a letter is written indicating no
24 prosecution.

25 Then the court observes that it is in June 2000 when

1 BAR1 is rearrested and reinterviewed that exactly the
2 same allegations in respect of HIA516, on which
3 a direction not to prosecute had been made and
4 communicated to her. She is interviewed about them.
5 There is no change of evidence that's occurred. If we
6 scroll on down, please, reference made to the
7 prosecutor's code. If we scroll further down, please,
8 and the application to stay was dismissed based on what
9 was known at the time, and that ruling was entirely
10 justified the appeal judges say. The jury was recalled
11 and told counts 1 to 12 were to be stayed and they were
12 stayed by direction of the judge.

13 "The learned judge dealt with the evidence of HIA516
14 in his summing-up. We do not consider it necessary to
15 refer to it in view of what follows.

16 He was inadvertently misled, as was the Lord Chief
17 Justice, about the application before the Chief Justice
18 for a stay. We make no criticism of counsel. Had it
19 been known, it would have been drawn to the court's
20 attention."

21 If we move down, please, then the Appeal Justices
22 say this:

23 "Although on the face of the transcript he appears
24 to have been severely damaged in cross-examination, it
25 is impossible for us to say that his evidence was not

1 taken into account by the jury in their overall
2 assessment of the guilt of BAR1, and although he did not
3 give direct evidence against the other appellant, BAR2,
4 other witnesses linked BAR2 with BAR1. So the decision
5 to find her guilty of serious sexual offences may well
6 have had an adverse effect on BAR2. It is relevant to
7 bear in mind that he", that is HIA516, "was the first
8 person to make allegations against either of the
9 appellants and was at the time facing a charge of raping
10 BAR 38 daughter. In the course of
11 cross-examination it was suggested to him that his
12 motive for making the allegations was to evoke sympathy
13 for himself on the grounds that he had a very troubled
14 upbringing.

15 Then HIA101, the of HIA516, also
16 went to Macedon and followed HIA 516 into the
17 witness box. He gave evidence against both appellants,
18 indicating that BAR2 and BAR1 conspired to commit
19 indecent acts. He made allegations against HIA 101
20 in cross-examination, but also arguably supportive of
21 his brother's allegation against ,
22 BAR12. He said he had been a friend of HIA 101
23 until HIA 101 raped BAR 47 daughter. He and
24 HIA 101 both got compensation from Barnardo's before
25 the trial. Made his first allegations in June '88. We

1 find it impossible to say that the jury did not seek
2 support for his allegations from other sources in
3 respect of counts 19 to 27 ..."

4 So that's HIA101's counts against BAR1:

5 "... and we can't rule out the evidence of HIA516 as
6 providing support for him, although we have taken into
7 account the direction given to the jury about the
8 evidence of HIA516 by the learned trial judge."

9 If we scroll down, please. Just go up a little bit
10 so we can see. This then is BAR37:

11 " gave evidence immediately after, and went to
12 Macedon with his sister ", BAR38.

13 You can see:

14 "He was subject to severe cross-examination, but the
15 jury convicted BAR1 on counts 31 to 43 based on his
16 evidence. They acquitted BAR2 on two charges based on
17 ^{BAR 37} evidence, for which there was no supporting evidence
18 from others.

19 At the time of the trial ^{BAR} was awaiting sentence for
20 a number of serious offences. Whilst in prison
21 investigations were carried out by the police about
22 offences alleged to have been committed by him against
23 the children of BAR 38 , BAR38. From there he wrote
24 a series of letters to BAR 89 . In one of
25 them he made a lengthy retraction. He gave evidence

1 before this court, and in the course of
2 cross-examination he was asked about these letters. He
3 agreed that some of the letters would have been honest
4 and some of them would have been dishonest. He was
5 asked whether he had any difficulty in moving from
6 honestly to dishonesty and replied, 'No, none
7 whatsoever'. He was asked questions about the letter
8 retracting his evidence."

9 Scroll down, please:

10 "He said that it was true and that he and others who
11 had given evidence at the trial had lied. The others
12 included HIA216, BAR29, HIA101, BAR39, BAR46 and HIA516.
13 He and the other six were seven out of the nine
14 complainants who gave evidence at the trial."

15 Now if I can just pause there, the two who were not
16 part of this set were BAR 38 BAR38 and BAR56.
17 I will come back to her shortly:

18 "He was not asked about an eighth" -- that's BAR56
19 -- "who was not resident in Barnardo's but a daughter of
20 . BAR 38 BAR38 was the ninth. He
21 agreed with counsel that when he gave evidence against
22 BAR1 he was trying to get his own back because she had
23 scared him very badly when he was a child. He said
24 a number of the others were not frightened of her."

25 He then is referred to -- Lord Justice Nicholson

1 refers to the statement which we have talked about, 3rd
2 June 2005 police statement to Detective Sergeant Brown:

3 "In that statement he said the evidence he had given
4 in court was true. In answer to the Court he said that
5 he didn't know whether he'd told lies about BAR1 for
6 revenge upon her. He said he didn't know whether BAR1
7 was innocent. Then he said that the letter of
8 retraction written to the social worker was written for
9 attention in order to get something -- someone to come
10 to the prison. There is a transcript available of the
11 entirety of his evidence. After consultation with the
12 Director of Public Prosecutions, Mr Simpson, QC,
13 indicated that the Court did not" -- sorry -- "the Crown
14 did not seek to stand over any convictions based on the
15 evidence of BAR37 at trial."

16 The Court then commented:

17 "This was a proper and responsible attitude for the
18 Crown to adopt. It led on to concessions about the
19 reliability of convictions based partly on BAR38's
20 evidence and partly on his own.

21 So far as counts against BAR1 are concerned, where
22 they involve other complainants than BAR37, we cannot be
23 sure that the jury did not rely on BAR37's evidence as
24 supporting their evidence. We are satisfied that the
25 jury looked for mutual support from witnesses such as

1 BAR37 when they were considering the other charges. Now
2 -- they were invited -- they were invited to do by the
3 Crown at trial, quite properly. Now BAR37's evidence is
4 accepted as not credible.

5 There were 17 counts on which BAR2 was convicted by
6 the jury. HIA516, as we have said, did not give
7 evidence directly implicating him, but the case made by
8 the Crown involved the contention that BAR1 and BAR2
9 worked together and anything supporting her guilt may
10 have helped to contaminate him by association.

11 Moreover, BAR37 made positive allegations against him,
12 which the jury may have thought were probably true, but
13 lacked support, and thus found him not guilty. None of
14 the counts against him can safely stand in the
15 circumstances."

16 Then another issue of importance for the Panel to
17 reflect on:

18 "A number of verdicts of not guilty were found by
19 the jury in respect of counts of rape and other sexual
20 offences alleged by HIA216 and BAR29. Yet they
21 convicted him", BAR2, "of the rape of both girls at
22 a place called , which was a holiday place for
23 children from Barnardo's. We have found it difficult to
24 understand why the jury did so, but we wish to hear
25 further submissions as to whether convictions on these

1 charges would be safe if there was a retrial on both or
2 either of them and BAR2 was convicted."

3 Then another issue that was dealt with:

4 "Although we did not mention these as factors in our
5 extempore judgment, which we have reduced to writing and
6 annexed to this judgment, we are obliged to say that we
7 have been concerned about them. This is not intended to
8 reflect in any way on the probity and dedicated work
9 shown by Detective Sergeant Boyce and by the social
10 workers and staff of Barnardo's homes who gave evidence
11 at the trial or before this court.

12 But we consider that the submissions made by
13 Mr Creaney, QC, supported by Mr Gallagher, QC, and set
14 out in the written argument put in on behalf of BAR2
15 under the heading 'The conduct of the investigation'
16 have considerable weight and will be borne in mind when
17 we consider the issue of a retrial."

18 That's a document that at the moment we don't have
19 and we will endeavour to obtain. Then they set out the
20 test:

21 "Did we have a significant sense of unease about the
22 safety of the convictions? We did, and as a result we
23 quashed the convictions for the reasons which we have
24 given above."

25 If we scroll down on to the next page, this is the

1 extempore judgment that was given at the time. I am not
2 going to go through that now, but the court sets out the
3 four issues that cause them concern and then that has
4 been augmented in the written judgment that we have
5 looked at. If we can just scroll down through that,
6 please.

7 So this judgment is given in June and then over the
8 course of the summer the Court of Appeal then comes back
9 and delivers judgment on the issue of retrial on 16th
10 September of 2005, if we can look at 4105, please, and
11 this contains another separate important issue that
12 I want to draw to the Panel's attention. Again the
13 judgment was given on behalf of the Court, which
14 contained Lord Justice Sheil, as he then was, Mr Justice
15 Deeny and Lord Justice Nicholson, as he then was:

16 "The outstanding issue which we have determined is
17 whether both or either of the appellants should be
18 retried. We have had the benefit of having had
19 arguments from counsel on both sides.

20 Mr Simpson, QC, counsel for the Crown, has adopted
21 a neutral stance, neither advocating that there should
22 be a retrial, nor urging that a retrial should not be
23 ordered, but he has rightly drawn to our attention some
24 of the difficulties which the Crown would face if
25 a retrial was ordered. Firstly, a decision would have

1 to be made as to which of the remaining complainants
2 could properly be presented by the Crown as credible
3 witnesses. He gave as an example BAR56 ..."

4 That's BAR56, then known as BAR56:

5 "... who in the course of her evidence stated that
6 the compensation which she had received as a result of
7 civil proceedings brought against Barnardo's had been
8 . When she gave that evidence, it
9 was not possible to say whether it was right or wrong,
10 but if it was true, it was a strong indicator that she
11 was telling the truth. Subsequent investigation showed
12 that it was untrue and her evidence was inevitably
13 tainted."

14 That was one of the issues and that affects BAR56 in
15 particular. Then a wider issue is recognised:

16 "It would be difficult, if not impossible, to keep
17 out extraneous evidence. Complainants were liable to
18 give evidence which was inadmissible, which might
19 prejudice the appellants."

20 Then the difficulties for the defence in presenting
21 their case and the publicity attracting to trial.

22 Then recorded in the judgment are various
23 submissions that are made by the Queen's Counsel
24 representing the defendants in respect of a number of
25 the individuals. You can see the reference to HIA101:

1 "His credibility was considerably weakened in the
2 course of cross-examination, not least when he was
3 recalled to give evidence late in the trial and it was
4 shown that he had lied to the court."

5 Then you can see in the last paragraph of the
6 page attention is drawn to the issue of the rape
7 charges:

8 "Insofar as the evidence of HIA216 was concerned as
9 against BAR2, the jury acquitted him of a number of
10 allegations of rape made by her. In respect of one of
11 her allegations of rape she admitted in
12 cross-examination that she had not been raped but said
13 that she had been sexually abused. 'Sexual abuse to me
14 is rape', she said. Her evidence in cross-examination
15 about these allegations was, to say the least,
16 unsatisfactory, and it was not surprising that BAR2 was
17 acquitted of these charges. He contended that the
18 difficulty which this court had involved the verdict of
19 the jury of rape at the holiday home in , for
20 which there was no supporting evidence. It was
21 therefore on a par with the charges of rape in respect
22 of which the jury found BAR2 not guilty. Moreover, she
23 claimed to be present at when BAR29 was
24 allegedly raped by BAR2, but contemporary records
25 produced by independent members of the staff indicate

1 that she was not at at that time. The
2 allegations made by her related to incidents which had
3 occurred more than twenty years previously. It happened
4 by chance that at the trial contemporary records of
5 these events made by the staff became available. These
6 contradicted her version of events. She had made
7 a series of allegations against another member of staff
8 called BAR4, which were not proceeded with as a result
9 of a direction by the DPP not to prosecute. This was
10 only discovered after the trial."

11 Then further submissions are made about BAR29 and
12 the allegation made by her.

13 Then if we -- you can see particular factual detail
14 is gone into what the contemporaneous records show
15 surrounding what became the allegation of rape.

16 Scroll down, please. So you can see that attention
17 is drawn to the contemporary records of BAR 95 .
18 If we just scroll down, please:

19 "The former stated in a contemporary report that she
20 was sitting talking to BAR29 in her bedroom. She ran
21 out of the bedroom and out of the front door of the
22 building on to the public road. The discrepancies were
23 plain. The motive for making the allegation, if the
24 staff was right, was that BAR29 believed BAR2 had made a
25 disparaging remark about her and was jealous. In these

1 circumstances a conviction for rape on retrial would be
2 highly unlikely and would not be safe."

3 Then discussion takes place about BAR38, given what
4 had been said before the Court of Appeal by BAR37 as to
5 having told her what to say. Further attention is drawn
6 to the contradiction between them, if we scroll down,
7 please, and then the court set out the principles that
8 they would apply and the conclusions that are reached:

9 "We have taken all the relevant factors into
10 account. We have had regard not merely to the stress
11 and strain on the appellants and the publicity which
12 will inevitably affect them for the remainder of their
13 lives, but also the stress and strain on those of the
14 complainants who might be advanced as credible witnesses
15 by the Crown. It is apparent that they went through
16 a harrowing time in the witness box. Their early lives
17 were robbed of the happiness which most young people
18 enjoy and they have had to relive those vicissitudes and
19 the misfortunes and mishaps which have occurred to them
20 since then. They would have to go through such
21 an ordeal again when the case against the appellants was
22 significantly weakened. We consider the conduct of
23 a retrial would render it difficult, if not impossible,
24 to ensure a fair trial. Accordingly, we consider that
25 the interests of justice will not be served by ordering

1 a retrial."

2 There the matter ended.

3 Now what I am going to say in short form now to
4 bring the opening to a close, Chairman and Members of
5 the Panel, you will be pleased to know, that the police
6 have provided a significant volume of material relating
7 to BAR37 because of the issues that arise in respect of
8 him, and the material is in the bundle. I not going to
9 bring it out to you now, save to point to a sequence of
10 events that result in 2009 police material that's been
11 provided and it is in the bundle at 9112 to 9187. It is
12 police file CC20091103005/15. It reveals that a broad
13 daylight assault took place on BAR39 by BAR37 in Belfast
14 city centre on 3rd November 2009. Ultimately BAR37 was
15 convicted of that assault and given nine months'
16 imprisonment that was affirmed on appeal.

17 Then in late 2011 the police have provided material
18 where BAR37 from prison makes serious sexual allegations
19 against BAR39 and that they were said to have happened
20 in Macedon during their childhood. He alleged that he
21 was raped by him in a potato peeling room in Macedon.
22 He claimed that he had reported the matters to BAR9 at
23 the time, although he goes on to say he didn't tell him
24 exactly what had occurred, and we can ask BAR9 about
25 that. The police interviewed BAR39, who produced

1 a pre-prepared statement saying he had never had any
2 contact of a sexual nature with BAR37. The allegations
3 were false and they were likely to be revenge for BAR37
4 being given a custodial sentence for assaulting him
5 a few years beforehand. Ultimately the PPS directed
6 there be no prosecution.

7 I want to leave BAR37, if I may, and just take you
8 back momentarily to the investigation, the Macedon
9 Inquiry investigation, in 2000. The police have also
10 provided material that shows that in May and June of
11 2000 a series of attacks were perpetrated on the home of
12 BAR1. They included arson, criminal damage, smashing of
13 windows, cutting of telephone wires and a petrol bomb
14 attack. The police investigation is at C2140/00 to be
15 found at BAR-8777 to 8838.

16 HIA101 admitted his role in the attacks in interview
17 on 25th June of 2000 and cited his reasons as being
18 while he was a child at Barnardo's BAR1 had sexually
19 abused and raped him over an eleven-year period. He
20 explained at interview that he had been watching her for
21 six months or a year, at times camping out in a forest
22 behind her house, followed her to the shops and watched
23 her shopping, and he did that because of the abuse that
24 she had engaged in that had haunted him, and his purpose
25 was to scare her, drive her out of the area and annoy

1 her. He pointed out that BAR 85 appeared to have
2 been present at the house with BAR1 in 2000 when he was
3 keeping an eye on them. On 29th March 2001 at Antrim
4 Crown Court he was given a suspended sentence of 15
5 months, suspended for two years.

6 Then in 2002 the Macedon Inquiry focused on those
7 three individuals, but it also recognised what they call
8 tributary inquiries, one of which was HIA216's
9 complaints about BAR4, who was . There were
10 others into BAR 30 , BAR12, and I believe one further
11 matter. The HIA216's matters were pursued by the police
12 and connected up with two other allegations made against
13 the one by BAR 47 and
14 the other by a boy unconnected to Macedon, and those
15 allegations then formed C62114/02 police file, which can
16 be found at 7588 to 7807 in the bundle.

17 The investigation established that BAR4 had been
18 a in Macedon, which we had known from
19 the previous investigation in , and he had also been
20 in for a period, and the investigation also
21 established that on 25th September 1992 -- so if we can
22 just timeline that, HIA216 makes her allegations in
23 about what -- after the discussions with BAR8 were timed
24 at being in 1977. There was no prosecution that arose
25 out of that investigation. The

1 had moved , and on 25th September 1992 BAR4
2 had been convicted at of
3 five sexual offences against children,
4 including against , one of the same
5 complainants in the 2000 police investigation that we
6 are touching on. His criminal record is at 8171 to
7 8174. BAR 48 had been convicted the previous year of
8 two sexual offences arising from intercourse with two
9 separate under-age boys when she had
10 before BAR 4 .

11 Now when HIA216 made more substantial allegations
12 against BAR4 -- because you will recall in the
13 allegation was of being touched in the cottage and being
14 touched in her chest area and then between her legs on
15 the way back to Macedon from having Sunday dinner in
16 their house . In February of 2000 her police
17 statement, which is of 22nd February, which is in the
18 bundle at 7615 to 7622, she claimed that BAR4 sexually
19 abused her also in her own house. You will recall it
20 was a positive denial that that had taken place
21 previously. The allegation was that she was abused in
22 front of his, BAR4's, BAR 48 as well as in the car
23 journeys back to Macedon, where she claimed that she had
24 been forcibly raped, both vaginally and anally.

25 Now the police obtained statements from former

1 members of staff. I am not going to read those out now,
2 but they are BAR40 -- that's at 7644 to 6; BAR 33
3 BAR 33 at 7647; and BAR 96 , 7648.

4 The statement of BAR40 demonstrates that she could
5 remember an incident where, after coming back from being
6 out on Sunday with BAR4, that HIA216 came in to tell the
7 in front of her something, but BAR4 was
8 already there. She reddened and then she left and
9 wouldn't discuss the matter any further.

10 BAR4 was interviewed on 12th June of 2002. The
11 interview is at 7663 to 7751. He acknowledged the
12 sexual abuse of his daughter, which he had been
13 convicted of, and of the other boy, who had been
14 involved -- who he had been involved with at his house.
15 So he admitted to that sexual conduct and he also
16 discussed his various sexual practices with BAR 48 and
17 others. However, when he deals with the allegations of
18 HIA216, and they are dealt with at 7724 to 7749, he
19 remained adamant that while he had taken her to his
20 house, as he had done with other children from Macedon,
21 at no time had he sexually abused her and said that the
22 things she was describing were not part of his pattern
23 of behaviour, which he was at pains to point out he had
24 accepted when he had been called, as it were, on his
25 activity.

1 When BAR 48 was asked about HIA216 during her
2 interview of 12th June, she said she had no recollection
3 of her viewing abuse of HIA216 at the hands of BAR 4
4 BAR 4 and that was not his form. That interview is at
5 7752 to 7783.

6 On 5th September 2002 then the detective constable
7 who was investigating the matter provided his report.
8 That runs from 7601 to 7609. He referred back to the
9 prosecution direction from 1985 on foot of HIA216's
10 fondling allegations at that time. He did recommend
11 that BAR4 should face charges in respect of the
12 allegations of the three complainants, but his detective
13 inspector, having reviewed all the facts, also agreed
14 that there was sufficient information to sustain a
15 successful prosecution and that he had no doubt it would
16 serve the public interest for a prosecution to take
17 place. That's at 7610. On the -- Superintendent Bailey
18 on 25th October 2002 recommended that BAR4 be charged
19 with a series of sexual offences against HIA216.

20 On 13th March 2003 the DPP drew attention to the
21 fact that some allegations made by the daughter were, in
22 fact, contradicted by other Crown witnesses, and that it
23 would appear from the run of the papers that
24 a consultation took place between the DPP and at least
25 HIA216 in late 2003. The reference for that is at 7597,

1 and on 18th December 2004 the DPP directed no
2 prosecution in respect of any of the allegations.

3 Then in order just to complete the sequence I want
4 to draw attention to in August of 2006 HIA417, who you
5 will hear from tomorrow, made allegations to Barnardo's
6 as part of an aftercare file reviewing session in August
7 2006. I am just going to show you. If you bring up,
8 please, page 289, so that you recognise this document.
9 This is a pro forma that Barnardo's operate: "Report of
10 allegation of historical abuse". Then that's completed
11 by the aftercare worker who is attending with the
12 individual concerned. We will deal with HIA417's detail
13 in evidence.

14 Then I am going to draw attention to the fact that
15 in 2007 HIA50 approached Barnardo's and alleged that he
16 had been sexually abused by HIA516 while he, HIA50, was
17 resident in Sharonmore in . He was there from
18 to . You will recall the
19 document we looked at about his view on Sharonmore. It
20 is recorded in the police report. Barnardo's accepted
21 that HIA516, who was not resident at the time, may have
22 been visiting HIA101. Offered him
23 counselling, which he didn't wish to avail of. He
24 claimed at that stage that he told BAR8 of the abuse
25 contemporaneously, which she can deal with in her

1 evidence. He initiated civil proceedings against
2 Barnardo's as well as approaching the police to make the
3 allegations. In 2012 then he renewed his allegations to
4 police, and claimed to have reported the abuse of HIA516
5 to police in when it occurred, and no record then
6 could be found of that.

7 There I am going to pause, Members of the Panel.
8 I will say that there are some matters that continue to
9 come in that over the course at some stage of the break
10 in the oral evidence over the next number of days that
11 I will bring to your attention. There are reports that
12 the Inquiry is presently Bates numbering that show the
13 Social Services Inspectorate inspecting Sharonmore, and
14 I can deal with the witnesses in respect of that, but
15 I drew attention at the outset to the limited number of
16 allegations that are made about Sharonmore. We have
17 looked at the events that are known of that took place
18 in Sharonmore in terms of potential abusive activities
19 and how they were dealt with, which involved them being
20 reported to Social Services, reported to police and the
21 matters investigated.

22 So unless there is anything else I can assist with,
23 we have travelled a long way in a short space of time
24 and I don't propose to say anything more at this stage.

25 CHAIRMAN: Well, thank you very much for that very thorough

1 and comprehensive opening.

2 We will adjourn now and our first witnesses then are
3 scheduled tomorrow. Isn't that correct?

4 MR AIKEN: Yes.

5 CHAIRMAN: Thank you.

6 (4.20 pm)

7 (Inquiry adjourned until 10 o'clock tomorrow morning)

8 --ooOoo--

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