

Public Administration and Constitutional Affairs Committee

Oral evidence: [The Parliamentary and Health Service Ombudsman's investigations into the Charity Commission, HC 111](#)

Tuesday 2 June 2026

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Members present: Simon Hoare (Chair); Richard Baker; Markus Campbell-Savours; Charlotte Cane; Sam Carling; Lauren Edwards; Peter Lamb; Richard Quigley; Luke Taylor.

Questions 1-136

Witnesses

[I](#): Rebecca Hilsenrath KC (Hon), Chief Executive Officer, Parliamentary and Health Service Ombudsman; Karl Banister, Director of Operations – Legal and Clinical, and Deputy Ombudsman, Parliamentary and Health Service Ombudsman.

[II](#): Dame Julia Unwin, Chair, Charity Commission; David Holdsworth, Chief Executive, Charity Commission; Helen Earner, Director of Regulatory Services, Charity Commission; Nick Baker, Chief Operating Officer, Charity Commission.

Examination of witnesses

Witnesses: Rebecca Hilsenrath and Karl Banister.

Q1 **Chair:** Good morning, colleagues, and good morning to our witnesses at this, our first meeting of the second half of this Parliament. Before we start, it may be helpful for Committee members, witnesses and those in the Gallery if I set out the context of today's meeting.

This Committee is tasked with examining the reports of the Parliamentary and Health Service Ombudsman that are laid before this House. Therefore, the role of the Committee is not to either reinvestigate or relitigate complaints. It is to give both organisations—the PHSO and, in this instance, the Charity Commission—a chance to explain their perspectives on the investigations, with a particular view to finding resolutions to any areas still contested, to provide a basis for future working, and to learn the wider lessons, if any.



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In line with predecessor Committees, we cannot and would not expect to replicate the PHSO's investigations. We will not automatically accept the PHSO's findings without making our own assessment of the PHSO's reports and the response from, in this case, the Charity Commission and any other evidence available. It goes without saying that we will, of course, test the PHSO's contentions thoroughly.

Colleagues will be aware that the courts have now considered the judicial review case, with the Charity Commission refused permission to proceed. We now have the benefit of that judgment and do not seek to act as an appeal tribunal in relation to that decision.

Colleagues will also be conscious that the Privileges Committee of this House is considering separately the issue of whether a contempt was committed in seeking to prevent the laying of reports before Parliament. You will remember that I tabled the privileges motion on the Floor of the House. That important work continues and is not within the remit of our considerations today. I am not a member of the Privileges Committee; therefore, I have no conflict of interest.

While this is not an inquiry into the wider work and performance of the Charity Commission—on a *modus operandi*, day-to-day basis, that falls within the ambit of the Culture, Media and Sport Committee—I am keen, with colleagues, to see if there are any patterns of behaviour that we need to identify as a result of this specific case.

We are taking oral evidence from the two organisations today. Parties will then have a chance for further written responses before we consider our next steps, in advance of producing our report.

We have a lot of ground to cover. I ask colleagues to be succinct in their questioning and our witnesses to be pithy and focused in their responses—and the first test for pithiness is going to be between thee and me, Mr Banister. In the Charity Commission's response to your letter outlining the PHSO's intention to lay the reports, the commission stated that the PHSO's power to lay a report had only been used "exceptionally rarely" and should be reserved for "cases of major significance", not for the cases that we are looking at today. The commission essentially argued that the decision was disproportionate. Can you explain to the Committee why, in your view, the decision to lay your reports before Parliament was indeed appropriate?

Karl Banister: The parliamentary commissioner is given the power to lay reports when it thinks there is an unremedied injustice after an investigation. It is clear that there is an intention that that power is available as a last resort—there is nothing said about that in the legislation—when compliance is sought with a report and the recommendations in it.

It is true that the parliamentary commissioner has done this about 11 times, but that is not a reflection of whether it is something that is reserved only for matters of constitutional significance. We have done it in a variety of cases. Normally, the consideration is: "Is this an important



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step to secure compliance with the report?" In this case, we thought it was.

Q2 **Chair:** So in essence there is nothing stopping you—apart from the burden of the paperwork and logistics—laying before Parliament every report.

Karl Banister: That is right. There are a couple of things. Well over 99% of our reports are fully complied with, and in those cases there is no consideration of whether to lay a report. We then go through a process. Our service model guidance sets out a process for the sort of thinking that we might do, but fundamentally it is a question of, "Is this going to be a useful step? Is it important in this case?"

There are cases where I have decided not to lay reports for non-compliance. One of those was a case where a trust had agreed to make a £100,000 payment in relation to continuing healthcare. It needed to have reconstructed exactly what would have happened in that case, and it could not do it. I felt that it had done everything that it reasonably could, so, although it was not fully compliant, I was not going to lay the report in those circumstances.

Q3 **Chair:** Would you describe this situation as an edifying process?

Karl Banister: I think that is a judgment for the Committee more than me.

Q4 **Chair:** I am asking for your assessment.

Karl Banister: I think Parliament envisaged that there would sometimes be disagreement about whether a report had been complied with. Disagreement is not necessarily unedifying. It depends on the way that the disagreement is done.

Q5 **Chair:** And you are conscious of the ombudsman's role as, effectively, an officer of the House.

Karl Banister *indicated assent.*

Chair: Thank you.

Q6 **Sam Carling:** This question is primarily to Ms Hilsenrath. The PHSO has informed the Committee that the decision was taken to lay the special reports under consideration due to, first, the likelihood of similar issues coming up again and, secondly, the fact that the PHSO saw the Charity Commission's understanding of the way the PHSO assesses compliance with its recommendations to be problematic. What was the basis for believing that similar issues would come up again?

Rebecca Hilsenrath: The basis of that thinking was to do with the lack of consensus between the Charity Commission and the PHSO about the nature of the PHSO's remit and jurisdiction, and the lack of remedied injustice for the complainants, which is always at the forefront of our thinking in relation to anything that we do within our jurisdiction.

Q7 **Sam Carling:** Has there been a subsequent reappearance of these issues



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in any further complaints that you have had against the Charity Commission?

Rebecca Hilsenrath: There are live complaints against the Charity Commission that we are currently handling, but as they are live it is probably not something that we can talk about in this space.

Karl Banister: Once we are into the investigation phase—after we propose to investigate—there are really strict obligations of privacy around our investigations. That is because we have extraordinarily wide powers to get information; it is the counterpoint to that. As things stand, I don't see any indications that there are going to be similar issues but, at the time, we had live investigations and we were not so sure about that.

Q8 **Sam Carling:** That is really helpful. Do you have any concerns that the way in which the Charity Commission responded to the PHSO's assessment of compliance with the recommendations might influence the response of other organisations in the future?

Rebecca Hilsenrath: Sorry, I didn't quite hear that.

Sam Carling: Sorry. Do you have any concerns that the way in which the commission has responded to the PHSO's investigation might influence the future response of other organisations to recommendations made by you?

Rebecca Hilsenrath: One of the reasons that we laid the reports in Parliament was out of a concern that the commission, at that point, was challenging our jurisdiction and our remit. In that space, we thought it was really important to make it quite clear in public what our remit and jurisdiction was. Indeed, we defended the judicial review on that basis.

Q9 **Sam Carling:** According to your report, the commission said that throughout the investigation, as well as after, it did not agree with your findings. That struck me as quite a belligerent attitude. Has the PHSO had that experience with any other public bodies?

Rebecca Hilsenrath: I suppose, notoriously, there are the two cases of recent lack of compliance. As Karl said a couple of minutes ago, our compliance rate is significantly north of 99%, but the Committee will be aware that the Government did not comply with our findings in relation to the state pension age communications case.

I would draw a distinction between those two in the sense that, in relation to the DWP investigation, there were issues around engagement and the Government's view about the remedy and paying compensation to the women involved. You will also be aware that we have engaged significantly with the Government since then on the development of an action plan to improve their ways of working as a result of our findings.

I would classify that as being quite different from our engagement with the commission. We have progressed our relationship since, but at the time, we were under the impression that it did not accept our jurisdiction, and that it did not accept our remedies or findings at all.



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Q10 Chair: That is a very interesting distinction. You are firmly of the view that your jurisdiction in this issue was being challenged, not simply the conclusions that you had reached.

Rebecca Hilsenrath: That is the case, yes.

Q11 Richard Quigley: Mr Banister, are you content that the PHSO had full understanding of the regulatory functions of the Charity Commission, particularly the commission's role in identifying and investigating any apparent misconduct or mismanagement in the administration of charities, as opposed to general misconduct or mismanagement?

Karl Banister: I think I am on record as saying that the experts in Charity Commission law are the Charity Commission, not us. However, I am confident that we understand maladministration and the requirements to follow the processes that you yourself have set out, and not to have self-denying ordinances to say that if there is, for example, potentially criminal conduct, you can consider it only if the police have decided to prosecute. Of course, we all know that not all cases are prosecuted, but that does not mean that nothing happened. The answer is yes and no. I think we understand it to the extent that we need to, but the Charity Commission is the expert, not us.

Q12 Richard Quigley: What would you want to do differently in this case?

Karl Banister: That is a really challenging question.

Chair: That's what we're here for!

Karl Banister: Yes. I reflect back, and I think that we rightly wanted to reach a consensus and understanding with the commission. I was asked earlier whether it was an edifying process, and I would say that I do not think it is edifying for public bodies to be litigating in judicial review. We tried to reach a consensus, but that had consequences, particularly for the complainants. The process was long and drawn out as a result of undertaking mediation, which in the end I don't think worked. Would I look back and do that again differently? I don't know. I think it was very important for us to see whether we could reach a consensus, and I think we tried to do that.

Q13 Richard Quigley: If that is the case—you are saying that it is an unedifying process but you would not do anything differently—do we have a much bigger problem?

Karl Banister: I don't think we do have a much bigger problem. The whole scheme envisages that people are not always going to agree, and that is a fact. The legislation has a mechanism to respond to that, and that is what we are doing today. As long as parliamentary bodies, particularly this Committee, play the role envisaged, I don't think we do have a problem.

We should be accountable for our decisions, as should the Charity Commission. Of course, I agreed with the introduction, in which the Chair said it is not the role of the Committee to reinvestigate, but it is the role of

the Committee to take a view and think about what should happen as a result, and what recommendations it wants to make. As long as it does that, I do not think we have a problem.

- Q14 **Chair:** Could you give us a word or two on how the ombudsman's office approached this when it came to that impasse? As an organisation, do you remain complainant-focused—you are the advocate for, or champion of, the complainant; we can choose our word appropriately—or was your key driver to find an accommodation with a third party that is also funded by the taxpayer? Who had the, if I can use this phrase, whip hand in your strategic deliberations? Was it safeguarding and championing the complainant or remaining professionally cordial with the Charity Commission?

Karl Banister: The correct answer—the answer we strive for—is that no one had the whip hand in relation to that. Although we would sometimes describe ourselves as an advocate, it is a dangerous word and we have to be careful with the nuance. We are there to make sure that the complainant's voice is heard. We are also there to make sure that the organisation's and jurisdiction's voices are heard. Then we are there to make an independent judgment about what the correct position is. That can sometimes look to both parties as if we are taking too much notice of what the other party is saying. That is inherent in the role. If we did not like it, we would not be ombudsmen. The role requires steering what we think is the fair path.

- Q15 **Chair:** The two complainants got caught in the middle of the crossfire, didn't they?

Karl Banister: Yes. That is something I regret about this case. I was very pleased that the judge in the judicial review judgment recognised that. That is quite unusual. I was pleased because, although I do not know this from talking to them, I believe the complainants would have welcomed that. Whatever we are doing, recognising the impact and meeting the complainants regularly to talk to them, as we do the commission, is really important. Being even-handed in those conversations is vital.

- Q16 **Chair:** Have you done anything in explanatory terms or on the website to better explain that the role is not that of proactive advocate, but that of adjudicator between a service provider and somebody who had a complaint about the service?

Karl Banister: Yes. Rebecca will come in on this as well. We have content on the website, and I think we go so far as to say, some might say self-servingly, that we are impartial and fair. Obviously, other people have to judge whether we succeed in doing that.

- Q17 **Chair:** But that is your starting point.

Karl Banister: Yes.

- Q18 **Markus Campbell-Savours:** The Committee would like to clarify whether, in advance of the PHSO recommendation to have Mr Murray's case reviewed, there was a discussion about whether that review should



be undertaken internally or externally.

Karl Banister: We entered into a mediation with the commission. Before the mediation, the recommendation in Mr Murray's report was that there should be an independent review of the case by someone outside the organisation. After the mediation, we adjusted the recommendation to say that it could be someone from within the organisation. I suppose I am circling around what you are asking, which is, how did that happen? The content of mediations is necessarily confidential. Before the mediation, it was independent from the organisation, and afterwards it was not.

Q19 **Markus Campbell-Savours:** Was that the right thing to do?

Karl Banister: It felt like the right thing to do. Mediations are about compromise. They are about trying to move from a position of being apart to a position where we can find a resolution. It felt like something that may assist in finding a resolution.

Q20 **Markus Campbell-Savours:** Would you do it again?

Karl Banister: In hindsight, I would not have done it in this case because we have ended up with exactly what we recommended in the first place. However, we should never say that we would not do it again, because we are an organisation that is seeking improvement and consensus. As I set out in a letter that is in the bundle, that does not normally happen by way of litigation; it normally happens by way of conversation.

Q21 **Richard Baker:** In relation to both these cases, the PHSO has said that it considers it is "not commenting on the appropriateness of the regulatory decision made by the Commission". However, as far as decision making is concerned, the PHSO has stated that it considers that it has a remit to determine maladministration if the wrong factors have been taken into account, if the factors have not been balanced appropriately or if for any other reason the decision is deemed perverse. Does the PHSO in fact comment on the appropriateness of decisions?

Karl Banister: The PHSO has to find maladministration first. If it does not find maladministration, then no; if it finds maladministration, in thinking about how to respond, the legislation envisages not a comment on the appropriateness of decisions, but that the PHSO cannot look at the merits of a decision without maladministration. The implication there is that if there is maladministration, that can stray into discussion of the appropriateness of the decision—but we do not go into the merits of decisions. What we try to do is to look at what an organisation said it would do and then test whether it did what it said it would do.

Q22 **Richard Baker:** What you are saying is that, in fact, it is inevitable in some ways that you will comment on the appropriateness of the decision if you find maladministration. You accept that that is—

Karl Banister: For the organisations in question, I think that that is how it is seen. It is difficult when a frontline organisation with huge demands on its service—which definitely the Charity Commission has—and having to make risk-based decisions, which such an organisation definitely has to do



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to, has another organisation saying, “Well, you did this maladministratively and you need to look at it again.” For such a frontline organisation, not taking that as looking at the appropriateness of the decision is hard to do.

Q23 Richard Baker: That is an issue for that organisation, rather than the work of the PHSO.

Karl Banister: I think so.

Q24 Richard Baker: Finally from me, please give an example of any aspect of an organisation’s decision-making process that the PHSO would never comment on.

Karl Banister: That is a really challenging question. If an organisation said—but there are maybe two scenarios. First, if an organisation said, “We will never look at issues X, Y and Z”, we might comment on that, because we might think that that was too broad an indication. Secondly, if an organisation said, “We are really busy and will only look at issues X, Y and Z in certain circumstances”, and it acted in accordance with that, I do not think that we would look at it.

Q25 Lauren Edwards: Good morning. I will talk a little about, or get your views on, implementation of your recommendations—there is one in particular. The Charity Commission has told us that it made improvements to its processes as a result of PHSO recommendations. The one I particularly highlight is, “to ensure greater transparency and clearer communication in future safeguarding cases” as a result of the PHSO’s recommendations. What is your view? Have the improvements been sufficient?

Karl Banister: I think we have accepted that they have been going forward, yes.

Q26 Lauren Edwards: You are confident that the commission has reflected that recommendation and changed its processes in such a way that you are now comfortable that your concern has been addressed.

Karl Banister: In an academic sense. That does not mean that we have seen cases that have engaged the issue, but yes, we have not asked the Charity Commission to do more in relation to that.

Q27 Lauren Edwards: Is there anything you would like to add, Rebecca?

Rebecca Hilsenrath: Only to say—I do not know whether this will come up in the next few questions—that you will be aware that we are very positively engaged with the Charity Commission in an exercise to improve understanding between the two organisations. That will take the form of an MOU, which will have an annexe setting out the results of some of the scenario work, where the two teams had been looking together at various issues. One of those is safeguarding, so we are in train on this, and it has been an opportunity to work through some of the steps that the PHSO would take in looking at safeguarding issues, were they to arise. That sort

of exercise will help the Charity Commission to understand what we would be looking for in that space.

Q28 **Chair:** Why?

Rebecca Hilsenrath: Sorry, why?

Chair: Why are you doing that?

Rebecca Hilsenrath: We are doing it for two reasons, I suppose, which are the reasons that will guide us in all our work. One of them is to improve individual redress, so that should those circumstances come up again, and we have further complaints about the Charity Commission, we will be able to deal with them more effectively. The other is to improve the way organisations operate and their service levels. We think that will improve how the Charity Commission works in complaint handling generally.

Q29 **Chair:** Do you have a memorandum of understanding with any other third party?

Rebecca Hilsenrath: We do not, but—

Q30 **Chair:** So why do you have one with the Charity Commission?

Rebecca Hilsenrath: We have not also recently gone through the kind of difficulties that we have with the Charity Commission with other organisations that we investigate.

Q31 **Chair:** I would accept that as a response if the courts had found in favour of the commission, but with regards to the judicial review, they did not. Why should the ombudsman's office bend over backwards through a memorandum of understanding and other interventions to improve the knowledge and understanding gap that existed with regards to your remit, or the ombudsman's remit, in so much as the Charity Commission was concerned? Surely that is something that the commission should be doing internally to understand the statutory footing that the PHSO has.

Rebecca Hilsenrath: I suppose it takes me back to the questions that Karl was answering earlier about the nature of how an ombudsman works. We are not a regulator. We do not have binding powers. The essence of how we work is about bringing people with us. I come back to that score point about having more than 99% compliance. Having a good understanding and a good way of working with the organisations we investigate is critical.

The MOU, which is in draft stage, has not at this point been finalised. It will not contain anything that is not publicly available in our service model guidance. Essentially, it will set out communication pieces and routes to escalation so that in the event of there being further instances of difficulty, we will not end up in the High Court or laying reports. That is because we will be working together; we will know each other better. We will have a more productive working relationship that will keep us away from those sorts of confrontational spaces.



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Q32 **Chair:** I am not convinced that that is the best way to go, frankly. What assessment have you given to the reputational impact as far as the public is concerned towards the ombudsman that there is—I use this phrase in both italics and inverted commas—a cosy compact manifested in a unique memorandum of understanding between the ombudsman, who has this peculiar role of arbitration, advocate, representative, seeker after truth, etc., and one other party?

Rebecca Hilsenrath: I understand your concern, and it is helpful to hear that. We do have memoranda of understanding with other organisations, and there is absolutely nothing in this MOU—

Q33 **Chair:** I just asked if you did and you said you did not.

Rebecca Hilsenrath: We do not routinely, but we do.

Q34 **Chair:** How many memorandums of understanding exist?

Karl Banister: We would have to look into that. I am aware of at least a couple of others. They have normally been created when there has been an issue of some kind. For example, there is something approaching an MOU with Revenue and Customs about the amount of time they get to respond to questions from us. That was derived from the difficulties that they have in their particular circumstances. I think there are a couple of MOUs. The reason they do not come up is that they are almost defunct now, but they would have been responding to a particular thing at the time. It is something that we have done before.

Q35 **Chair:** If we include this one, which is evolving with the Charity Commission, we are talking about three if my maths is correct.

Rebecca Hilsenrath: Subject to us checking the data, yes.

Q36 **Chair:** This is a very rare deployment.

Rebecca Hilsenrath: It is a rare deployment. The judicial review and the whole episode was a very rare instance. I completely understand what you are saying, and the optics are really important for us in terms of reassuring complainants that they can come to us and we will not be in a place of giving the Charity Commission, or any other organisation that we investigate, any special treatment. I am very clear that the contents of the MOU will, first of all, be disclosable and will not contain anything that is not squarely and fairly within our current service model guidance. They will not amount to any kind of special treatment, but they will help mutual understanding.

Q37 **Chair:** Can you see how the public might think that it does?

Rebecca Hilsenrath: I understand what you are saying, and we need to think about how we communicate that.

Chair: I urge a little greater thought and urge aborting the idea.

Q38 **Lauren Edwards:** When you were previously before the Committee, we discussed the health side of your work, about the balance of responding to



complainants and doing preventive work with local health trusts, for example, to get them up to a better standard. Do you see the memorandum of understanding as part of that preventive work, or is it exceptional, even considering that broader work that the PHSO does?

Rebecca Hilsenrath: I think the former. As I said earlier when I first answered the question, we do this from a perspective partly of looking at individual redress and in terms of trying to improve public services generally. We think this will help the Charity Commission work with us and improve its complaint handling. That must be to the benefit of Charity Commission stakeholders.

Q39 **Lauren Edwards:** That indicates to me a quite different understanding about how safeguarding concerns should be dealt with. How has their approach, particularly in the initial stages, differed from what you find with other public bodies dealing with safeguarding complaints? Was there a chasm in how they dealt with safeguarding complaints compared with other public bodies and, therefore, you had to go through this process to take them on a learning exercise to get to where other bodies are?

Rebecca Hilsenrath: I don't know if Karl can answer that. I don't think I can possibly comment on any difference between how the commission handles safeguarding complaints and how other public bodies do. We can look only at what happened in this particular case. Specifically because we, as the ombudsman, are the last resort for complaint handling, we identified the fact that there was a poor understanding of our role, which impacted on our ability to deal with those complaints and address the unremedied injustice for the complainants.

Q40 **Lauren Edwards:** When you look at case studies or the scenario work you mentioned, is it specifically to do with understanding your role and the interactions, rather than saying, for example, "This is how safeguarding concerns are being dealt with in other public bodies, and they need to be reflected in the way you operate and the way we interact."?

Rebecca Hilsenrath: Exactly so. A lot of the scenarios being looked at in that work will touch on some of the issues that came up in the two cases under consideration today, though not exclusively.

Q41 **Lauren Edwards:** Is there anything you want to add, Karl?

Karl Banister: We have explicitly tried to include elements—we deliberately separated me from the workstream that does the case studies. They do include these elements, and are intended to. They are derived from real, old cases, so that they are realistic, adding elements to make them work for what we need. It is not our role to tell the commission how to deal with safeguarding, unless the commission had guidance about how to deal with safeguarding that was clearly irrational. That might then get into maladministration. Fundamentally, it is our role to see that they have a policy and an approach and that they stick to it. The case studies are there to help them understand what that looks like to us. If that leads them to think they need to change some policies and procedures, that is up to them, but we are not telling them to do that.



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Q42 **Chair:** I don't want to labour this point. I would be with you entirely on the need to amplify as often and as clearly as possible to the general public your role, remit and statutory underpinning. I get that, but I am not sure I remain entirely convinced of the sense and efficacy of effectively spending time to evolve a memorandum of understanding with a long-established body that should of itself have the intellectual maturity to understand precisely what your role is.

Rebecca Hilsenrath: Can I come back on that, Chair? I suppose there are two elements to this. One is the conversations we have been having with the commission, which have been really helpful in improving understanding. The other is the output of that. I am taking from what you have said that it is the output that you are querying.

Chair: Yes, and I am sure the Committee will comment on that in our report. You will have heard the view from the Chair, if from nobody else, so in the interest of time, we will move on to Ms Cane.

Q43 **Charlotte Cane:** I want to talk about the PHSO's conclusion that the commission's review of Mr Murray's case was not compliant with the recommendation. The reviewer did not themselves refer to the commission's approach to the failure to report abuse since 1993 as an "error", and the commission has disputed that categorisation, so why do you think the reviewer concluded that it was an error?

Karl Banister: I am just looking for the relevant place. It is hard to know.

Chair: Mr Bainster, do you want to take a moment to find your source in the bundle?

Karl Banister: One of the problems is that if I find the source in the bundle, it won't be that helpful. That is part of the problem. It is hard to answer the question. You have seen the decision log and the decision. It is speculative, because there is not really much reasoning behind that thinking. It is based on the kind of thinking that we had about the lack of connection between the decisions made and the information that the decisions were based on.

Q44 **Charlotte Cane:** There was a review, and that review did not say that the failure to report abuse since 1993 was an error. The commission doesn't think it is an error, but you do. I am trying to understand the grounds for that.

Karl Banister: We felt—I felt—that the commission needed to set out the basis for its thinking, and I didn't understand the basis for the thinking. I was not suggesting that the commission should come to a different view at the end of all that, but it should set out why it reached that conclusion.

Q45 **Charlotte Cane:** Right, so you were saying that the commission hadn't set out its criteria well enough, and therefore there was no way, under the commission's rule, of making a judgment on that.

Karl Banister: Yes.



Q46 Charlotte Cane: Okay. Why do you think the commission needed to take into account the failure to report and the holding of the requiem mass in deciding whether to close the case?

Karl Banister: The two things—the relationship between the charity and the holding of the requiem mass—were central to Mr Murray’s complaint about the charity and, eventually, to the commission’s consideration of the charity. There is a difference between saying what you think about something and just swerving past it, essentially. I felt that those two things were clearly relevant to the thinking about whether the charity had behaved correctly. The review did recognise that there had been changes in safeguarding materials—the guidance—throughout the case. It was an old case, obviously. But it also recognised that there were some standards that would apply all the way through. There was a sense that the reviewer themselves had opened up a doubt about that and then had not taken it further.

Q47 Charlotte Cane: To some extent, you have answered this, but I don’t know whether you want to add anything. Why do you think the commission did not give sufficient weight to the interests of victims and beneficiaries in deciding to close the case?

Karl Banister: I have said in a different context—I am very sympathetic to this, because we have similar issues—that there is huge demand on the service of the commission. It has to apply risk-based guidance. What we saw in this case was that it was doing those things, but it was not possible to work out how it had done that. I cannot answer why it didn’t do that, because that is not set out in the materials. It might be that in a risk-based process, properly documented, the answer would be that, “It’s not proportionate in this case, for these reasons.”

I am no expert on the numbers of cases the commission has, and what I wouldn’t ever want to be, as the ombudsman, is saying, “You must do this thing in all these cases.” That is the sort of thing the commission was worried about, I think wrongly, in these circumstances. It was worried that it would have to change all its procedures as a result of our investigations, whereas we were essentially saying, “Follow the procedures you have, or change them if they don’t work.”

Q48 Charlotte Cane: You seem to be saying that there is a mix—that their procedures were not clear enough, because they did not have clear enough criteria, but also they were not following their procedures.

Karl Banister: What we were saying was that a risk process is set out, but the reviewer—and anyone else looking at it—was essentially having to reconstruct and work out what had happened, in the consideration of the cases, because the information wasn’t there. The procedures were there in some respects, but it wasn’t possible to know how they had been considered, and that made it difficult for us and impossible for the complainants to understand.

Q49 Charlotte Cane: So they hadn’t fully documented the process they had gone through in making the decision.

Karl Banister: Yes. That was a big part of the issue.

- Q50 **Charlotte Cane:** The Charity Commission does not regard its role as simply identifying misconduct and mismanagement. It considers that its role is to determine what impact any potential misconduct or mismanagement might have on the charity, and other charities, in the present and the future, rather than delivering justice for past failures. Do you agree with that view?

Karl Banister: I think so, yes. I think, in principle, that's right. You have to look at individual cases to really understand the granularity of that, but I think, in principle, the commission has to be able to stand back from the charities and look at its duties and what it actually needs to do. So I think I do.

- Q51 **Charlotte Cane:** So who does have responsibility for delivering justice for past failures?

Karl Banister: I think the Charity Commission is better placed, for the reasons we discussed earlier, to answer this, but it has a responsibility as a member of a system that includes the courts and the ombudsman, of course, eventually. And it has a certain amount of public money and it has to make a case for where best to distribute and spend it, as we all do.

I think it is in that context that you might sign up to the principle, "We want to deliver justice," but there is a reality in making choices: "This is the sort of work we are going to do." It won't feel like justice for the people where we have said, "We're not prioritising this as much." Then, as a public body, you must be accountable for the decisions you make and be prepared to justify why you have picked this over that.

- Q52 **Chair:** From the complainant's point of view—a non-specific complainant—is that the best approach? You could paraphrase it as follows: "Our negative experiences are taken as test cases or we are used as de facto guinea pigs in order to make sure that similar problems do not happen to somebody else, notwithstanding the fact that they happened to us."

Karl Banister: That is a sort of philosophical question—

Chair: No, it is not a philosophical question; it is an operational role question.

Karl Banister: We are really clear that our desire is to do complaints handling, to deliver outcomes for complainants and to tell people what we think happened, but also, through doing complaints handling, to improve public services. Many complainants—I wouldn't like to say the majority, but I think it might be the majority of complainants—explicitly want service improvement as part of their complaint. They understand that by bringing a complaint to us, they are, on the one hand, looking for an individual outcome—

- Q53 **Chair:** I get that, but it is not only about service improvement. They obviously want lessons to be learned; they do not want bad service to be a groundhog day—a perpetual repetition. I think it is a given that they want



lessons to be learned from their negative experience, but they also want some personal recognition where there has been a prima facie case of bad experience, poor outcomes, maladministration or whatever, don't they?

Karl Banister: We do not use complaints as a test case. I understand the characterisation, but the reality is that when someone brings a complaint to us, we either look at it or we do not, depending on our tests. If we look at it, we are doing that to deliver an outcome for the complainant, which is a mix of a remedy for their injustice—if there has been an injustice—and a change to the service if there needs to be one. In doing that, their complaint is the critical thing for us to be able to look at that. This comes back to the question; I think the answer is that it could look like that, but it is part of handling complaints, if you are doing it in the right way, to be thinking about the system as well as the individual.

Q54 **Luke Taylor:** I have a couple of questions on organisational jurisdiction. One of the Charity Commission's concerns in relation to Ms Hall's case was that it believed the PHSO was seeking to impose requirements on the commission to investigate the credibility of criminal allegations, such as rape. We understand that the commission was of the view that the PHSO was asking it to carry out tasks normally reserved for the police and the Crown Prosecution Service. Can you clarify what actions the PHSO would have expected the commission to have taken in the light of the allegations?

Karl Banister: I will read out something from a letter I sent to the commission on 22 December.

Chair: Last year?

Karl Banister: Yes. I said: "I would summarise what we might expect in the future in the following way: we do not believe that it is possible for the commission to only take such allegations into account if there is a conviction or where civil liability is being determined. We do not believe that the commission are obliged to investigate any such allegation to the criminal standard. We believe that the commission are obliged to consider any such allegation, including the surrounding circumstances, in the same way as they would any other allegation, with a view to determining whether it affects their decision." Sorry this is quite long.

I then said: "Each case will turn on its own facts, so hard and fast rules are difficult to come up with. However, if the allegation is central to the credibility, purpose and mission of the charity, that may suggest more consideration, as with any such allegation. If the allegation is peripheral to these functions, then it may be less so. Ms A's case provides a good example of where an alleged perpetrator denies criminal offending but has none the less conducted themselves in a clear breach of trust. In our view, the function of the commission is not to determine the truthfulness or otherwise of the allegations per se, but to look at the whole circumstances, including what is disputed and what is not, and make an assessment of its relevance."



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What I am saying there is that the test is not: "Did the police prosecute and convict, and we can then take that into account?" The test is: "Is this allegation relevant to the things that we are thinking about, and if so, how?" In those circumstances, the commission did not need to prove the level of abusiveness in the relationship, for example. The fact of the relationship was entirely relevant to the circumstances of that charity, given the nature of the charity and the nature of Ms Hall's interaction with the charity. All the commission really needed to do was to think, "These things have been alleged. That's relevant to this investigation. We don't need to know whether it is to a criminal level or not to do our job."

Q55 Luke Taylor: The commission has said that the special report did not set out the legal basis for the position taken by the PHSO, or what further actions the PHSO expected the commission to have taken. What was the legal basis for this statement in the report: "It is not the case that the s. 181A Charities Act 2011 disqualification or other powers are dependent upon a criminal conviction; nor is it the case that it is simply not open to the Commission to conclude misconduct or management on the basis of allegations which have not been proven to the criminal standard"? You referenced some of that in your previous answer, but this question is specific to the legal basis of that.

Karl Banister: The short answer is that the charities legislation does not set out that there must be a criminal conviction before we can look at certain kinds of conduct. I think that that is conclusive, really. It is a point of judgment for the commission in each case to work out what it needs to know to make a call. As I may have said before, we all know that not all criminal offences are prosecuted. The police have the same constraints as all of us. It cannot be that a potentially criminal offence is treated differently from any other activity that might be relevant. In the end, all bodies, regulators and ombudsmen have to consider the facts in front of them and come to a view. That is something I say to caseworkers all the time: "You can't be 50:50." In the end, there is always something that pushes a case one way or the other, and you have to take a view about the relevance of that thing.

Q56 Luke Taylor: Do you think the Charity Commission misunderstood what the PHSO was saying it should have done?

Karl Banister: Again, you can ask the commission, but I feel that the commission did. Obviously, we had the judicial review, which is relevant to this, so I do not think there's now anything between us and the commission in terms of our understanding on this. I think the commission did think we were asking them to do criminal-style investigations and I do not know why they thought that, but I think that is what they thought, and that was a misunderstanding.

Q57 Chair: I am sure we will take this up with the commission, but I am finding it very hard to understand or believe that an organisation of the status, longevity and authority of the Charity Commission could make such a basic misunderstanding with regard to what you were asking them to do, and the foundational basis from which you were asking them to do



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it. If it was a new organisation created by three people in a back bedroom on a wet Thursday afternoon in Dewsbury, I might understand that, but this is the Charity Commission—"We did not understand what you were asking us to do and why you were asking us to do it, and the authority, Mr Ombudsman, with which you were asking us to do it," doesn't really wash, does it? In all honesty, you would not accept that from a health trust.

Karl Banister: Well, we didn't accept it from the Charity Commission.

Q58 **Chair:** Was it not naive of the commission to expect, or to hope, that you might accept it, or indeed, for the courts to accept it? It is either arrogance or naivety—or possibly both.

Rebecca Hilsenrath: If I can comment, I do not know, as it's not really for Karl and me to understand—

Chair: I am sure we will pick it up with the commission.

Rebecca Hilsenrath: You will pick it up with the commission. To your earlier question about what we might have done differently and whether it was edifying, we do have to reflect on whether we could have been more persuasive and clearer. All I can say is that, at the time, we felt that we had so many conversations face to face, on Teams, in writing and in person. Part of the effort that we are going through at the moment—we spoke about this earlier; obviously you have concerns about improving that understanding—is because we do not really understand why we could not land those messages last year. It was just a very difficult space in which we felt, at the time, that we had done all that we could.

Chair: Thank you. I have Mr Quigley and Mr Carling who want to come in now. Which of these stellar colleagues am I going to take first? I think I am going to take Mr Quigley and then I am going to draw this panel to a close with Mr Carling's cross-examination.

Q59 **Richard Quigley:** What value do you think you as the PHSO have offered in these cases?

Rebecca Hilsenrath: I think first and foremost we have done our best to articulate the voices of two complainants in very difficult spaces, who feel that their voice has not been heard and that the injustice they suffered has not been remedied. That is something that we have always tried to keep first and foremost in everything that we have done. That injustice remains unremedied at this point, but we know that there is work underfoot with the commission to try to address that.

Q60 **Sam Carling:** I have two questions. One of them is very quick and just to clarify what I think we have heard, which is that the PHSO is saying that, up until now, the Charity Commission has taken the view that, in this case and in similar cases, it cannot take action against a trustee if there are not criminal-level proceedings against them. Am I understanding that point correctly?

Karl Banister: It is really tricky. I am being a bit technical, but I do not want to generalise. It is just that the impact in this case seemed to be



that. I would be really surprised if that was actually the position across the board.

- Q61 **Sam Carling:** As would I, which is why I am sort of sitting here stunned, because that would have shattering implications for the commission's work more generally and for a lot of historical safeguarding cases.

As we have talked about, the commission has said that, as there were no criminal or civil findings against the chair of the charity, it was not up to it to reinvestigate, but the PHSO disagreed and said that the commission could still have used section 181A powers under the Charities Act. What does the PHSO believe is an appropriate standard of evidence, if not criminal or civil standards, to prompt action from the commission in cases like this?

Karl Banister: It will vary from case to case but, in this case, I think the commission actually had evidence that was relevant to its consideration: it was not denied that there was a relationship; it was not denied that the charity's objectives related to abuse victims; it was not denied that the complainant was a victim of abuse in the past. It does not seem a huge leap, with that evidence, to think that that is not an appropriate relationship. Then you see in the review, "This looks like a consensual relationship." My decision on that was commented on with approval in the judicial review, which was that that just does not work. So the level of evidence is case by case but, in this case, they might well now think that they had the evidence they needed and that it was just about the lens through which they were looking at it.

Sam Carling: We will soon find out. Thank you.

Chair: Thank you. Let's draw that panel, then, to a close. You are both very welcome to take a seat in the gods—the usherette will be around with an ice cream and a Kia-Ora in a moment.

Examination of witnesses

Witnesses: Dame Julia Unwin, David Holdsworth, Helen Earner and Nick Baker.

Chair: Welcome. Thank you for finding the time to join us this morning. I know you will have heard the questions that colleagues have asked. It is not for the Chair to ever give advice, but, Dame Julia, I will give you one piece of advice, if I may: never play poker. Your face was showing a degree of growing irritation with our line of questioning, so I hope we will not further irritate you now.

Dame Julia Unwin: If it wasn't showing irritation, it might have been showing anxiety, Chairman.

- Q62 **Chair:** Ah, well, I suppose that might be true. I appreciate, Dame Julia, that you are six months into post and we are talking about events that predate your leading of the organisation, so we caveat on that point, but



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let me ask a couple of in-principle questions. Is the commission proud of how it conducted itself with regard to these cases?

Dame Julia Unwin: No, the commission is not proud of how we conducted ourselves on these cases. We are proud of our history and of the sector that we exist to regulate, but we are not proud of our conduct in this one.

Q63 **Chair:** I am going to ask you two understanding questions. What is your understanding now of the role and remit of the PHSO, and to what do you ascribe the lack of understanding that led to this sticky impasse several months ago?

Dame Julia Unwin: I have known the work of the PHSO in many of my roles in other institutions. I had not come across the role of the PHSO in what is essentially a regulatory authority, which is the Charity Commission.

Chair: But your colleagues had.

Dame Julia Unwin: They had indeed. I think you were asking about me, as I came into it.

Chair: Yes.

Dame Julia Unwin: Our current understanding is that we are working extremely closely to make sure that we can get that right. There will always be a tension between our two purposes, and that is as it should be, but our desire and our intent is to make sure that, in practice, we make that work for complainants but also for the wider sector that we regulate.

Q64 **Chair:** Ignorance of the law is no defence, as we know.

Dame Julia Unwin: Indeed.

Chair: Correct me if I am wrong, but having perused the biographical details of your colleagues who are sitting on the panel with you today, none of the original advisory legal team—in-house or external—are on the panel this morning. Correct?

Dame Julia Unwin: That is correct.

Q65 **Chair:** Is there a reason for that?

David Holdsworth: Chair, there have been some departures from the commission and given some of the grading of the civil servants who were providing the advice, it was not felt appropriate for them to attend the Committee.

Q66 **Chair:** What legal advice was the commission given before it decided to instigate a judicial review?

David Holdsworth: I came in, as you know, partway through this. The full board took a decision in April '24 to judicially review the PHSO should we not be able to reach an agreement.

Q67 **Chair:** And that was a unanimous decision of the board?

David Holdsworth: I wasn't around, so I can't say.

Chair: Maybe we could have a note on that.

David Holdsworth: Yes. Looking at minutes, there was an in-depth discussion, there was internal legal advice provided, and there was external counsel's advice provided for that board discussion. The board then instructed that, should the executive wish to change that decision, they must revert to the board.

I think it is fair to say that when I arrived in post, the relationship with the PHSO was difficult. In trying to understand where we were and how we could move through this, I re-engaged with the PHSO and met with the then acting ombudsman and the deputy ombudsman alongside DCMS and the Cabinet Office with the then interim chair. I think there were concerns that, based on the previous mediation, there were still differences in interpretation. Based on what was clear internal and external legal advice, I think the board found themselves in a complex and difficult position. But there was external counsel's advice and internal legal advice that concurred, and we have two independent legal board members on the board who are there to advise the executive and oversee such legal work.

Q68 **Chair:** Usually when one finds oneself in a complex and difficult position, the last thing you do is press the nuclear detonation button, but in the commission's case you did, by instigating a judicial review. Parliament had advised the commission on the issue of privilege. The commission decided that it sought to upend decades, if not centuries, of evolution of parliamentary privilege and sought to create a legal barrier between the Parliamentary and Health Service Ombudsman and the Parliament of which the ombudsman is an officer. What in the name of heaven made the commission think that that was ever going to be a good idea?

David Holdsworth: I think that in hindsight, there are a lot of lessons we have learned.

Q69 **Chair:** With respect, Mr Holdsworth, I don't think you need hindsight for a public body such as the Charity Commission to sit back and reflect and say, "Well, of course we have recourse to the courts—of course we have; that's the right of any citizen or organisation in a free society—but is it a right that is sensible for us to exercise, because it is going to put the commission in this particular spotlight and show a woeful understanding of the statutory remit of the PHSO, No. 1, and of the primacy of Parliament when it comes to receiving papers under privilege from a parliamentary servant—in this case, the ombudsman?" Yet it was still felt to be a good idea, and you needed hindsight to work out that neither of those things was going to land particularly well.

David Holdsworth: I think, Chair, that you have referred to it as naivety, and there is regret among the board members I have spoken to, and the executive, that the understanding of how the action could be perceived by this House and this Committee actually occurred. I think—



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Q70 Chair: Mr Holdsworth, when I tabled my privilege motion, the next communication I had from the commission, which was not, I think, particularly friendly worded, was—I paraphrase—“Dear Mr Hoare, I’m afraid to say you’ve got entirely the wrong end of the stick.” I was effectively accused of misleading the House, having taken House Clerks’ advice with regard to the pertinence of the motion with a referral to the Privileges Committee. Even up till then—a short debate on the Floor of the House, in receipt of Speaker’s Counsel advice—the commission was still digging in, maintaining that it was right and repelling all boarders. Who the hell was advising you?

David Holdsworth: As I have said, it was external counsel with internal legal advice, and there are two independent legal board members, one of whom—

Q71 Chair: And was there parity between the two advisers, internal and external, that this was the right way to go, or was there a conflict between the two?

David Holdsworth: The internal legal advice was agreed with by the external counsel appointment. The board did appoint external counsel to test the internal legal advice and ensure that its understanding of the law—and it is right that there are questions for the legal advice that the board received at that time—

Chair: You have kept the receipt, I hope.

David Holdsworth: We certainly have all the records, Sir, and we did provide—

Q72 Chair: How much did this cost?

David Holdsworth: In total, we have spent £70,000, from end to end, on both these cases.

Dame Julia Unwin: If I may, Chairman, one of the actions I took when I first arrived—I was concerned about the governance of all this decision making, and in a sense your questions speak to that—was to ask for a review. However much we may now think that the decisions made were not correct, they were made properly, they were made through the committees of the organisation, they were made with good advice and the board signed off each stage of it. I have the assurance from my own side that we did that properly.

Q73 Chair: Did nobody think to ask what the professionals’ assessment might be on the reputation of the Charity Commission in the court of public opinion?

Dame Julia Unwin: I am not aware whether they did or not.

David Holdsworth: I think, Chair, that there was consideration, and the intent and the concern—I think on reflection, looking back, the impact on the complainants was considered, and it was understood that this could be difficult, but the complexity—

Chair: Could be?

David Holdsworth: I think would be difficult.

Chair: Would be.

David Holdsworth: And I think those were the conversations that were had. The discussions at board were around the extent that this would alter our regulatory remit and the extent that it would impact on the statutory duty, under section 16(2), that this House placed on us not to impact the voluntary principle and the attractiveness of voluntary work in the sector. I would say that perhaps, in those discussions and decisions, not enough attention was paid to how we would be perceived by this House and how the actions that we were taking could be viewed by this House.

Q74 **Chair:** So we have “misunderstanding” and “not enough attention”—two issues there. Have the board collectively—those who are still there—considered their positions?

Dame Julia Unwin: I have not had that conversation. I know it is a live issue, but nobody has raised with me the suggestion that they would not wish to stay because of what has happened, and I would hope—

Q75 **Chair:** Does that surprise you, Dame Julia? You are a distinguished public servant.

Dame Julia Unwin: It doesn't surprise me, because my commitment, and I think the commitment of the board, is to make sure that we recover from this, that we learn the right lessons and that we come out with an enhanced reputation, not a weakened one.

Q76 **Chair:** I don't want to prolong this too much, because colleagues have lots of questions to ask. What I am finding it hard to get my head around, so it is probably me, not you—I don't mean you personally, but corporately—is that the commission is a well-established, well-resourced entity, it has a sponsoring Government Department in DCMS and there is the role of the Cabinet Office in this as well, and yet you, as the commission, blunder into this, causing considerable upset to two complaints and a massive amount of additional and unnecessary work to the PHSO, troubling the courts and seeking to undermine parliamentary privilege by forming a legal block between information to be received by Parliament.

If you were a new organisation of three men and a dog in a back bedroom, there may be a justification in all of that. But the fact that the commission is not, and that it can deploy £70,000 of taxpayers' money to have external legal advice and mount a challenge in the courts, suggests a certain degree of corporate maturity, which does not seem to be manifest at all in how the commission conducted itself with regard to these cases. What is the honest justification for how the commission got itself into this position? Ignorance, I am afraid, will not be a justifiable defence.

Dame Julia Unwin: I am sure that Mr Holdsworth can answer that more thoroughly than me, but the only word in what you have said that I would challenge is “blunder”. I do not think there is any evidence in the



paperwork that this was a blundering episode. I think there was a genuine concern about what this particular case might do. Well, certainly there was a concern for the complainants, and I register that every time I talk about this, but there was also a concern about what this would do for our future powers, recognising that safeguarding issues are affecting every public body in the land. So I think there was thoughtfulness in it.

- Q77 **Chair:** I would defend the use of the words “blunder into”, because the blunder—not quite of Charge of the Light Brigade proportions, but analogous to it—was effectively predicated on a professional misunderstanding of the locus between the commission and the PHSO and the statutory remit of the PHSO. That is, I think, an accepted statement of fact.

Dame Julia Unwin: I don’t think we were clear about the locus—I think that is fair—and “misunderstanding” may therefore be the right word.

Chair: As I say, I defend the use of the word “blunder”, because the first question that should have been asked is not, “Can we as a commission do this?” but “Does what the PHSO is doing have a legal statutory footing?” and the clear answer was yes, as affirmed by the report. I do not say facetiously that I hope you have kept the receipts of your external legal advisor, because I would be tootling off to the Bar Council to talk to somebody about that.

- Q78 **Markus Campbell-Savours:** I want to turn to the role of the Charity Commission. Can you briefly explain the regulatory functions of the commission, particularly its role in identifying and investigating apparent misconduct or mismanagement in the administration of charities, and taking remedial or protective action in connection with that?

David Holdsworth: Our regulatory function is to uphold public trust and confidence in charities and to determine the charitable status of organisations, and it is limited in statute to ensure that we do not replace the day-to-day decision making of trustees and can intervene only in situations where either we are concerned that there is evidence of mismanagement or misconduct, or we are not satisfied that trustees are complying with their legal duties. Going back to our historic nature, I think it is fair to say that the commission has evolved faster in the past decade than it did in the previous century, and some of that challenge is around the historic nature of the expectation of the commission versus how we have evolved in recent times.

- Q79 **Markus Campbell-Savours:** What does identifying and investigating “apparent misconduct or mismanagement” in the administration of charities mean specifically, as opposed to what the words misconduct or mismanagement might mean in other contexts?

David Holdsworth: There are different levels of powers we can use. If we have been provided with prima facie evidence that needs further investigation, we can open a statutory inquiry, which opens more of our investigative powers in that space. Otherwise, it is about investigation, assessing and then applying the relevant outcomes in statute.

Q80 Markus Campbell-Savours: Where does safeguarding fit into your regulatory function?

David Holdsworth: It is about the compliance of trustees with their legal duties. It is about compliance with our safeguarding guidance. As our guidance, which has been live since 2011, says, it is not our role to investigate individual allegations, but it is our role to make sure there is no live safeguarding risk, to use our powers to intervene if we assess there is, and to hold trustees accountable for compliance with their legal duties.

Q81 Markus Campbell-Savours: Mr Banister, on behalf of the PHSO, suggested that there was a distinction to be made where the safeguarding concern related to, effectively, a core function of the charity. Are you clear in that distinction yourself?

David Holdsworth: Absolutely. Our guidance is clear that trustees must comply with their legal duties and that we must refer on and require reporting to us of any breaches of such incidents. The commission used its power to issue guidance to charities, in effect to invent the "report a serious incident" regime. There is no power outside our general guidance regime. Before the recent suggestions around automatic reporting in safeguarding cases, we have for more than a decade required charities under our guidance to automatically report to the relevant authorities, be that the LADO or the police, and to report to us, so that we can ensure they are complying with their duties.

Q82 Markus Campbell-Savours: Do you think the PHSO fully understands the regulatory functions of the Charity Commission and what the commission can and cannot do in response to concerns raised about charities?

David Holdsworth: I think we have got to know each other better. The work that Ms Hilsenrath and Mr Banister were talking about has enabled both organisations to understand more about our statutory duties, the limitations, and some of the different functions we have uniquely, including as a quasi-judicial body, where in some instances we exercise the power of the High Court, concurrently with the High Court. It is fair to say that charity law is old; it goes back to its first codification in 1601, with the statute of Elizabeth, and it has evolved, not just through the wisdom of this House and statute, but through centuries of case law. That means we often have a complex picture in how we can apply our duties in this space.

Q83 Sam Carling: Your regulatory powers seem to be that you can disqualify individuals from acting as charity trustees and you can direct the winding up of a charity. Can you talk us through the circumstances that might lead to those actions being taken?

David Holdsworth: If I may, I will hand to Mrs Earner, our director of regulatory services.

Chair: Mrs Earner, the floor is yours.



Helen Earner: Good morning, Committee. Thank you for the question. We have quite limited roles in terms of the winding-up of a charity. Specifically, we have to identify if a charity has determined that it is dormant and defunct. Ultimately, we are there to manage the final closure of a charity. Where we identify concerns of mismanagement and misconduct, our powers are there with a remedial and protective focus. It is our main investigative tool to identify concerns in charities and put risk right. With our resources, we focus on live risks when we are determining which cases to focus on.

Disqualification is a power that for Parliament, and in terms of case law as codified, is a high bar, and in both of these cases it was considered but it was felt that the legal test was not met. Where we identify either live risk or historical abuse, we can and indeed do take action. We can open a statutory inquiry; we can invite an interim manager to be an independent decision maker, including to put in place remedial action to resolve a charity's risk; and we can direct charities to suspend certain activities or take further action. But we have to get the balance right between preserving the trust of a charity for future beneficiaries and addressing live risk.

Q84 Sam Carling: We may come on to some more detailed questions around some of the specific cases. It sounds to me as though you are saying that in this case the winding up is not really appropriate because that is for specific circumstances, so your only available option is to disqualify trustees. It sounds as though the commission either does not have anywhere near enough powers or is not anywhere near bold enough in using its powers. Which is it?

David Holdsworth: We have been clear with successive Administrations that the expectation on the commission versus the powers we have, especially the ability to shut down a charity, are very misaligned. We must also think about the resources. Over recent times, the expectation on the commission has grown. The sector since 2008 has gone from £30 billion a year in income to £110 billion, managing £300 billion in assets. There are 170,000 charities, 1 million trustees and 6 million volunteers. There are 1.4 million employed people in the sector—that is more than the agriculture sector—and there are 400 civil servants, which is 250 fewer than in 2008.

At the same time, we have had three Charities Acts expanding the powers of, and the expectation on, the commission. We have to be realistic that we can respond to those powers and use them only with the resources that we have, and we do that to the best of our ability. We have got better at it over the years. We have used more powers in the last three years than we did in the previous five. Our use of powers has grown over time, as has our clarity with—and asks of—Administrations about the powers and resources we need. I am pleased to say that the Government are investing in the commission in this spending round, recognising the significant pressure and expectation on the organisation.



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Dame Julia Unwin: I would just add that we do not have the power to wind up charities, but many people think that we do. We do have the power to transfer occasionally, but under very particular circumstances.

Q85 **Sam Carling:** Mr Holdsworth, you have just said there are 1 million trustees. How many are typically disqualified per year by the commission?

David Holdsworth: I would have to come back to you on the exact stats.

Q86 **Sam Carling:** Just roughly, are we talking tens, hundreds, thousands?

David Holdsworth: I think it is in the tens into the very low hundreds.

Q87 **Sam Carling:** That seems very low given some of the serious issues that end up being discussed by the commission and more broadly.

David Holdsworth: The legal test is applied in each case, so where caseworkers are taking decisions, they seek the independent legal advice of the internal charity law specialists. We have tested some of our boundaries and cases in the courts. In the recent case of Mond in the tribunal, where we had disqualified, the tribunal determined that we had overstepped and that, although the statements made on social media were abhorrent and could be considered in the extremism space, they were made on a personal media account and not a trustee one, so freedom of speech trumped the duties of the trustee, and we were therefore wrong to disqualify. So, we do regularly test this, and we understand where the courts draw boundaries in some cases.

Q88 **Sam Carling:** On safeguarding, I asked the representatives of the PHSO earlier if they thought that your understanding of the law is that you need criminal-standard evidence to take action against a charity trustee when there are safeguarding allegations; is that your understanding?

David Holdsworth: No. It is misconduct mismanagement. In Ms Hall's case, we found misconduct mismanagement, which is why we issued the official warning, which is the second most serious sanction that we can issue to a charity. I know that to people outside the commission that may not seem like a serious sanction, but it is a very recent power that we sought because our only other power was disqualification, and the bar for that is significantly higher. We are engaging with Government to review our powers to make sure that they are fit for purpose for the expectations of today and the challenges that we are seeing in the sector.

Q89 **Sam Carling:** If you will forgive me for pressing this one more time, in Ms Hall's case the charity chair sent her repeated messages saying she is "nothing", asked for sexually explicit photos of her twin sister from now and from when she was "young", called her a "serf", and, in one case, tried to call her seven times at 4.30 in the morning. How on earth did that not meet your organisation's legal test as to whether someone is still a fit and proper person to run a charity that looks after vulnerable people?

David Holdsworth: That is a valid question. The independent inquiry of Sir Gary Hickinbottom, a retired Court of Appeal judge who is still president of Welsh tribunals, will look to answer whether our legal advice



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was too conservative on those cases and whether a different sanction should have been applied.

Q90 **Chair:** Really? For a circumstance such as the one Mr Carling just set out?

David Holdsworth: As I said, legal advice was provided on the case. A caseworker cannot overrule the legal advice provided unless they believe that there is a significant public interest. I cannot answer because I was not at the Charity Commission at the time.

Q91 **Chair:** In the name of heaven, surely one does not need legal advice to assess that the circumstances Mr Carling set out are not acceptable.

David Holdsworth: I do not disagree. That is why we found mismanagement misconduct and issued the official warning. I would like to bring Mrs Earner in on the specifics of the case.

Q92 **Chair:** Let me ask a question out of intellectual curiosity. Have you thought about the people who give you legal advice? In the space of 20 minutes we have discovered two bits of legal advice to which I think most people would just go, "What?"

David Holdsworth: You highlighted the age of the commission. That is also one of the challenges: how we have grown as an organisation. Our internal lawyers are at the heart of a lot of our casework. As we look through the powers and how they apply, and at how we are structured and organised following the investment from the Government, there are legitimate questions about how we operate in that space.

Q93 **Chair:** Mr Carling, for the record, if you have it to hand, could you repeat the quotation that you just read?

Sam Carling: I can. I was pulling together a mix of different quotations; I can find the longer ones if you would prefer, Chair.

Chair: No, your précis will be sufficient.

Sam Carling: Happily. The charity chair sent the victim repeated messages saying that she is "nothing", asked her for sexually explicit photos of her twin sister from now and from when she was "young", called her a "serf", and, in one case, tried to video-call her seven times at 4.30 in the morning.

Chair: What is your response to that?

David Holdsworth: It is appalling, abhorrent behaviour.

Chair: No, no—that is a given. You are not going to find any dispute over that.

Sam Carling: He is still active.

Chair: Corporately, what was the commission's response when that canon of evidence was presented?

David Holdsworth: I will bring in Mrs Earner.



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Helen Earner: I think this is a good opportunity to first state that—

Chair: It might be a good opportunity to answer the question.

Helen Earner: I want to use this opportunity to apologise for our handling of these cases.

Chair: It might be a good opportunity not to try the patience of the Committee and just answer the question.

Helen Earner: Thank you. As Mr Holdsworth has explained, my team took legal advice on the matters. They identified—

Q94 **Chair:** Why would you need legal advice?

Helen Earner: Because the test for disqualification has multiple limbs and there are requirements that need to be met in terms of criminal behaviour, and that had not been established in this case. There is also the breach of trust, which is related to—

Q95 **Chair:** Somebody asking for naked pictures of a minor?

David Holdsworth: As we have said, we are going to ask Sir Gary Hickinbottom to review our interpretation of the powers. Let us not forget: it is the interpretation and the limbs set. Discretionary disqualification, as it has been written in statute, has a very high bar, as set by this House. You cannot just meet one limb—you have to meet multiple limbs to meet this disqualification test. I am not saying that that is right. I think in this case—

Q96 **Chair:** You have had the legal advice. What did the legal advice say?

Helen Earner: The legal advice said that it was not proportionate to apply the disqualification power. The chair had stood down—

Q97 **Chair:** What would have been? Rape? Breaking in?

Helen Earner: Yes, if that had been established, because—

Chair: Oh, you might have done something then, if the minor had been raped.

Helen Earner: We were in contact with the police, both in the UK and Australia, that were identifying the allegations and engaging with both parties. In the first stage of the cases, part of our remit is to ensure that we do not cut across the work of the police, but we were engaging with them and ensuring that the relevant safeguarding agencies were referred to. In the absence of a charge, that test was not met.

Q98 **Sam Carling:** I have the Charities Act up here. Section 181A prescribes three conditions to disqualify a person, all of which must be met. First, “the person is unfit to be a charity trustee or trustee for a charity”—yes. Secondly, “making the order is desirable in the public interest”—yes. Then, thirdly, at least one of six more detailed conditions. I will just quote one example of those conditions: “that the person was a trustee, charity



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trustee, officer, agent or employee of a charity at a time when there was misconduct or mismanagement in the administration of the charity, and...the person was responsible for the misconduct or mismanagement.” It feels like all three of those are met—it is pretty slam dunk to me.

David Holdsworth: I cannot say—I was not around for the cases at the time. The standard was not met. However, I think on proportionality terms, he had also given the undertaking to stand down. He is no longer a trustee at the charity—

Sam Carling: Yes, but his wife is.

David Holdsworth: I understand the point, and I agree with the points that you are making. It will be for Sir Gary Hickinbottom to advise on whether or not the tests were met in this case and we did not apply them properly.

Q99 **Sam Carling:** The law does not require someone to remain a charity trustee for you to take action against them. Even if he had stepped down, surely it would still be the commission’s role to say, “Look, this person is a menace. Clearly, we need to disqualify this person. We cannot just accept the fact that they have gone.” He could go set up another charity somewhere and do it all again, under that logic. The commission still has the powers to deal with him. He’s still going. Will you take action against him now?

David Holdsworth: I think that is what we have asked Sir Gary to review as part of his independent review into the case.

Sam Carling: I do not think I can get any further with this line of questioning, Chair.

Chair: Let me just put you on notice, Mr Holdsworth. I have little or no doubt that we, as a Committee, will be writing to your sponsoring Department, to the Cabinet Office and to No. 10, because what I think I have heard this morning is an organisation that does not, on the face of what we have heard, appear at all fit for purpose.

Q100 **Peter Lamb:** On that point, I entered this room thinking I knew what the purpose of the commission was, and now I think it just maintains a database online, as far as I can tell. There was no attempt whatsoever to protect the public interest or the interests of people who are vulnerable who are in the charge of these charities.

On this point about someone who has already stepped down from a role despite doing something profoundly illegal, had that person then applied for a role as a trustee of a children’s charity in another location, would any action have been undertaken by the Charity Commission at that point?

Helen Earner: We have a process for identifying waivers for trustees that people need to apply, but, as with the disqualification test, it is led and driven by convictions for criminal offences, so that would require us to have identified tests had been met to apply that the individual was not a fit trustee, which in this case was not identified.



Q101 Peter Lamb: So in the view of the Charity Commission, this person would have been fit to serve on a children's charity dealing with vulnerable children, despite the fact that they had made this request that was clearly wrong?

David Holdsworth: If I could interject, it would depend on a case-by-case basis. I can give you an example since my arrival. There is a convicted sex offender in a charity who is under a lifetime supervision order, and yet the local police force and the local authority designated officer support that position. The individual is not a trustee. My view is that he is acting as a senior officer in the charity, and I have had to write to the chief constable, the police and crime commissioner and the LADO to say, "Why do you, the statutory bodies, think this is appropriate? We do not. However, as the primary statutory responsible bodies, your judgment in this case will supersede ours as the regulator if we act." So, there are cases where we are actively pushing other statutory agencies on their duties to ensure that we can uphold and comply with our duties.

There is another case in which we had an application for a waiver—again, from a sex offender—challenged in the tribunals. The tribunals have upheld that, but that is us applying our resources to the public-interest test, and we do that in as many cases as possible.

Q102 Peter Lamb: The bit where we can give you some grace is on the point around the current legal position that you are dealing with. Sam has consulted the legislation and given an interpretation of it. I am prepared to accept that maybe there is more to it. If the commission is aware of the problems and restrictions on its current remit, and of the fact that vulnerable people are being put at risk by the current gaps in the legislation, why have proactive steps not been taken by those responsible for the commission to ensure that issues with the law are brought to the attention of people who can do something about it? Why has it taken coming before this Committee, after all the legal steps to try to prevent this entering into public awareness, for this to have come to the fore?

David Holdsworth: With all due respect, it has not. I wrote shortly after taking up post to various Secretaries of State setting out the gaps. The chair, Dame Julia, and I met No. 10 prior to this Committee's hearing and a long time ago. Also, we gave evidence to IICSA, which set out a number of years ago recommendations—which are still to be implemented—on the gaps that needed fixing in the law and in bodies' statutory responsibilities. We have constantly pushed different Administrations to address this. It still has not been addressed. Alexis Jay's report was a number of years ago and its recommendations remain outstanding. We accept there are gaps. There have been gaps for a number of years, and we have consistently reminded Administrations of that and requested that they be addressed.

Q103 Peter Lamb: That is a very good point. Thank you. At this point, is there any evidence of action being taken by the Government to resolve the issues?



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David Holdsworth: We are in active dialogue with No. 10 at the moment on the gaps in our powers, as well as on where we see gaps in other statutory bodies. Part of the challenge that I think has surprised Dame Julia in the conversations we have had—she might want to come into this as a returnee to the commission—is how often we end up as a regulator of last resort.

For example, the other month I had a courier turn up at my head office and hand over 180 keys to 180 properties that were under the control of a charity we were investigating. We are investigating and managing that charity because there are gaps in social housing regulation and in what the social housing regulator does. I cannot say that there are 1,000 people at risk—the most vulnerable, substance abusers, people with mental health problems—but we are now the landlord for 180 properties in Merseyside because of gaps in the law. Rest assured that, ever since I took up my post, I have ensured that Secretaries of State, members of the Cabinet and senior fellow civil servants are aware of the gaps that we are dealing with and having to plug, often as a regulator of last resort and last standing.

Q104 **Chair:** Let me invite you to share with this Committee either all or a distillation of those submissions. We are a Committee that is charged with public administration; it is the core of the activity of this Committee. We will talk to Ministers about this as well.

Dame Julia Unwin: I will be brief, but I was a charity commissioner in the 90s, and I have returned to a landscape that is entirely different because of our relationship with other regulators. It is incredibly important to me that we get that right. I have been around for five months and spent some of that time meeting other regulators with a long list of ones to go.

The overlaps and the linkages and the gaps in that landscape are deeply problematic. There are 170,000 charities, most of whom are not touched by much of that regulation. But when they are, there are real issues for us. That landscape is one that we are learning to navigate, but we cannot be the regulator of last resort, because that is not the right place for charities to end up. We need other regulators to take these organisations, which, as several of you have said, are providing incredibly important service, and make sure that they are properly and appropriately regulated.

Q105 **Sam Carling:** I accept that the commission has been advocating for changes to policy on a number of areas on this. I take a lot of interest in this policy area, so I know that the commission has been working on it. I also think the commission has not been anywhere near proactive enough in relation to certain powers that you have, as we have discussed today. I wanted to pick up on one point that arises from differences in what Mr Holdsworth and Mrs Earner have said. We discussed whether a criminal standard of evidence is necessary to take action against a trustee. Mr Holdsworth, you have said it is not. Mrs Earner, you have said that it is. Please, can you clarify?



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Helen Earner: You can take action, but I apologise if I misled you when I was trying to describe the disqualification test. I can give you an example where a case of historic abuse that was combined with a live risk met the legal test for us to open a statutory inquiry, appoint an interim manager and, indeed, disqualify trustees. Where there is mismanagement and misconduct, the proportionate action that we take is based on the factors in each case. There are particular requirements for disqualification but, as my chief executive mentioned earlier, where we find that trustees are not fulfilling their duties, and remedial and protective powers are required, we will instruct charities to take action. That includes the exclusion of the trustees.

Q106 **Sam Carling:** With respect, that does not answer my question. In this case, there were ongoing concerns and the case was closed. Mr Holdsworth, you recently made comments around how the decisions of the police and others supersede yours as the regulator in relation to how serious someone's conduct is. Yet we still have not heard whether there needs to be criminal conviction or not. Sometimes when I ask that, I hear that there does. Other times when I ask the same question, I hear, "Oh no, we can take action regardless." That is not clear.

David Holdsworth: Automatic disqualification requires conviction. Discretionary disqualification requires misconduct, mismanagement to be found.

Q107 **Sam Carling:** That is helpful, but most of what we have been talking about today has been discretionary. You have still not done it.

David Holdsworth: As I said, in these particular cases Sir Gary Hickinbottom will review whether the legal advice provided to the caseworkers, or whether the interpretation of where the limbs met, was appropriate or not.

Q108 **Chair:** Do you really need his advice to work out appropriateness?

David Holdsworth: Yes, because we regulate to the law and the legal advice provided, not to our own moral standards and judgments. I accept the Committee's challenge about the legal advice provided to us to date. That is a valid point. But having an expert like Sir Gary, who is a retired Court of Appeal judge, can tell us whether our legal advisers are being too cautious, whether they are not going as far as the law allows or, as the internal legal advisers are saying, whether it is actually that they are applying the law correctly and the powers are simply not strong enough for what would be expected for our action.

Q109 **Chair:** What weight do you give to the precautionary principle?

David Holdsworth: I think proportionality is one of the tests.

Q110 **Chair:** Precautionary. The precautionary principle.

Helen Earner: I am sorry but that is not a term that I am familiar with in terms of how we regulate charities. According to our—

Q111 **Chair:** You have never heard the phrase before?



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Helen Earner: Our guidance requires case officers to take proportionate and appropriate action. I cannot answer directly on the term that you are referring to, apologies.

Dame Julia Unwin: Most regulators talk about the precautionary principle. A regulator whose—

Q112 **Chair:** The Charity Commission does not because they do not know what it is.

Dame Julia Unwin: I know what it is, and so does Mr Holdsworth. We do not use that phrase, but I know precisely what you mean by it. We are a legally based regulator. That is the basis of our mandate. That means we tend not to adopt the precautionary principle of acting in anticipation. We are learning huge things from this case—

Q113 **Chair:** How about children's social services, for example?

Dame Julia Unwin: They do. They are entitled to do so.

Q114 **Chair:** And if you are dealing with safeguarding issues relating to the safety and security of a minor, surely the precautionary principle must have some role in your ingredients of coming to a decision or determination.

Dame Julia Unwin: It certainly does in the vast suite of advice and support that we give. A huge amount of our work is not the sort of intervention we have been discussing; it is guidance to individual charities and to groups of charities where the precautionary principle is applied throughout, because we are warning about risk management and the identification of risk. I think what Mrs Earner is talking about is when we come to the point of an intervention—then, those particular interventions are governed by the legal framework. We will take that away, though, and we will certainly consider whether we should be doing that differently. That is the distinction I would make.

Q115 **Chair:** That is slightly encouraging. However, with the greatest of respect to Mrs Earner, unless I have got your job title wrong, you are the director of regulatory services.

Helen Earner: Indeed.

Chair: The director—

Helen Earner: Yes.

Chair—of regulatory services for the Charity Commission.

Q116 **Chair:** A moment or so ago Dame Julia tried to give comfort that the precautionary principle is alive and kicking within the commission, but you just call it something else. You appeared not even to recognise a term which is used across Government and across the piece and has been, I am tempted to say, since Adam was a boy, but not quite.

Dame Julia Unwin: If I may—

Chair: No, no.

Helen Earner: I accept what you are saying and thank you for the follow-up question. With the way your follow-up question was phrased, I can point to the action that we take to address live risk. Where we identify a live incident and charities are not dealing with it, we can appoint interim managers or direct charities to suspend activities or individuals. I apologise if I did not answer your question appropriately.

Q117 **Chair:** What I think we would like to see—and I appreciate it will be an onerous piece of work unless the software can be interrogated to produce it in quick order—is, without naming people, where the commission has acted in the space we are referring to this morning, and the spur for that action. Was it the conclusion of a legal case with judgment, or was it using a discretionary power reserved to the commission? That would help us understand your balance of response to situations as they arise. If there are other categories which trigger action that we have not covered, please feel free to put that in the note. I am looking to Dame Julia; you have nodded very kindly. You are happy to submit such a note?

Dame Julia Unwin: My colleagues may be cross with me afterwards, but I think we can help you with that, yes.

Chair: You are experienced enough to cope with their crossness, I am sure.

Q118 **Lauren Edwards:** It is helpful to understand the statutory or legal gaps in respect of your powers. I want to briefly go back to board governance. It is helpful to understand that, Dame Julia, you said you had conducted a review, that the processes had been followed and that you had sought legal advice, although there is a question around the quality of that.

I suggest there is an argument around collective poor judgment of the board in how individual complaints were taken forward, as well as how you engaged with the PHSO, and the further actions that were taken. Earlier you said individual board members were comfortable to continue in role. My question is: should they, particularly those involved in that? Do you not need to have a bit of a think about a board refresh? Have any actions come out of the review that you mentioned in terms of board composition and reviewing the external legal arrangements that you have?

Dame Julia Unwin: I do not say this as an excuse, but I have been in post for five months, and this particular issue has coloured quite a lot of that time. I am of course in conversation with all board members. We have a lot of rotation anyway. I think as of next week we are seeking two new board members, and I welcome the fact that we will be refreshing the board, because boards always need that. There has been quite a lot of turnover, and what this organisation needs now is stability of direction, real understanding of where we have erred and what mistakes we have made in the past, and certainty about learning those lessons.

I am trying to lead a culture at a governance level of calm response—to not be precipitate on some decisions but to think them through. We have



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a strong case and risk committee, which is currently chaired by a lawyer, who is sadly leaving us and will be replaced—we are looking for a successor for her. We have a strong audit and risk committee, to which we have just appointed a new chair, who I think will be excellent, and we clearly have a strong internal people and remuneration committee.

I have chaired two meetings so far, so I may well be back in front of you saying that I made an error here, but at the moment, we are a learning board. We are good at scrutinising, and I believe that the executive currently feel sufficiently challenged and stretched in the role that we have—they may tell you otherwise. Should we reverse and change a lot of the key personnel? I am really keen that we learn from what has gone wrong and that we make the right remedies and change things in the commission. That is my focus, and I do not want to do anything that jeopardises that at the moment.

Q119 Lauren Edwards: Do you know offhand what percentage of the board is still in existence from the time these issues were being dealt with versus the new people who have come on board?

Dame Julia Unwin: I am going to make a guess, and then maybe get kicked under the table by my chief executive. The chairman at the time is no longer with us. The interim chair, Mark Simms, who held the fort extraordinarily well and I believe came to this Committee, will be stepping down in October. We are losing another couple, as I have said, and we have some changes going on. Very few people have been there more than three years, so quite a lot of this predates them. Two board members have just been renewed by the Secretary of State.

Q120 Lauren Edwards: Is it about 30%?

Dame Julia Unwin: I thought it was about that, but it is a board of eight; we have to make sure that we work well and collectively together, and there is permanent turnover. The key individuals who took part in these early discussions are not with us, but we are in good contact with them. I have certainly had conversations with my predecessor about exactly how we have got to this place from a governance point of view, because I needed to understand that.

Q121 Lauren Edwards: In my view the role of the board should be about challenging and being a place for debate. What challenge was happening on the board during this process in terms of, “Are we doing the right thing? Are we going down the right route in these actions we are taking?”, particularly from the independent members of the board?

Dame Julia Unwin: I have to say that I have relied on conversations with every single board member about this, and the written record, which is pretty comprehensive about the nature of the discussions. As in any written record, it probably does not carry every conversation, but I know that there were special extraordinary board meetings held and there were significant points through the process at which the whole board was involved, and the record shows a level of challenge and scrutiny, which is what I would have expected.



In the more recent past, since I have been around, we had an extraordinary board meeting in response to the judicial review outcome and getting the next stage of the process going. Certainly in the five months that I have been in place, the board in this organisation, compared with others I have been involved in, has been extremely closely involved in decision making—not excessively so, because we have to allow the executive room to move, but I would be surprised if they did not find the board challenging and stretching.

Q122 Lauren Edwards: I appreciate that the minutes will not necessarily capture all the discussions, but they should give an indication of areas of disagreement, challenge over legal advice or challenge over the way that complainants were being treated. What were the main points of debate among the board? It does not sound like there was necessarily unanimous approval that “everything we’re doing is the right way forward”. What were the points of disagreement or concern that were raised during this process?

Dame Julia Unwin: Well, at every stage—I will be repeating this before we are finished, if the Chairman allows me—deep regret for what has happened and where we have made mistakes, and deep regret for the hurt that has been caused, but a real concern to make sure that we are learning the lessons, a challenge to the executive about why decisions were made—that is, I believe, all in the records and certainly I have been briefed on it—and a desire to look at different options for intervention. Mr Baker has been responsible for some of these, so he may well be able to help me, but my reading of the minutes and my extensive discussion with all my colleagues suggest that they were involved at every stage and were asking questions about alternative courses of action—whether or not we were doing things in the right way. In the end, they concluded that some of the decisions that have brought us to you today were correct. With hindsight, we might think that they were not right, but they concluded that in a properly governed way.

Nick Baker: To echo what Dame Julia said, it was subject to constant conversation with the board, and it was challenging. This is not a place where we wanted to be—certainly not here, and certainly not in a JR process. We sought alternative remedies, but unfortunately we never achieved that.

Q123 Lauren Edwards: What other remedies were you considering? You ended up going with the nuclear option, as it was described earlier—the JR.

Nick Baker: Prior to that, we had the mediation process back in ‘24, and that set forth what we thought was a process through which we would get resolution, but unfortunately that was not achieved.

Q124 Chair: I have a quick factual question. The commission tells us that the compensation to Mr Murray has been paid, but Mr Murray advises that it hasn’t been. Has it been?



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Nick Baker: I can take that one, Chair. There was a recommendation from the PHSO for a financial remedy to be paid to Mr Murray. That was paid in September '24.

Q125 **Chair:** So it has been paid.

Nick Baker: Yes.

Q126 **Chair:** Why does he say it hasn't been?

Nick Baker: I can't answer that. We are aware that there is this sort of anomaly, perhaps because we erroneously phrased it as compensation. It is not compensation; it is part of the recommendation from the PHSO for a financial remedy. That financial remedy has been paid.

Q127 **Chair:** Dame Julia, a moment ago, in answer to my colleague Ms Edwards, you spoke about a calm response. Calmness is to be applauded—one does not want organisations running around like Chicken Licken—but it also needs some urgency. I wonder if you might say a word or two about your understanding of the commission's broader assessment of the reputational hole that they have dug themselves into—they have finally put the spades down and stopped digging—and how to get out of it. I don't want to dispirit you still further but, from colleagues across the House I have spoken to, the commission is in the junk bond basket reputationally and organisationally.

Dame Julia Unwin: I wouldn't have applied to do this job if we were seen as a junk bond organisation, and that has not been my experience in the last five months. I have had nothing—

Chair: I can only repeat what I am told.

Dame Julia Unwin: And I am only repeating what I am told. However—

Chair: Maybe my audience is a bit franker—I don't know. Anyway, that is a point of debate.

Dame Julia Unwin: Let's not argue about the truth of that. All I am saying is that I don't entirely—

Chair: Let's talk about energy. Let's talk about timeframe.

Dame Julia Unwin: We have a chief executive who has not been in post for very long and has brought energy and drive to changing some of the internal processes. We have been fortunate in securing a financial settlement with His Majesty's Treasury, which means that we are now able to get our staffing numbers up to what they were a few years ago. We are doing that not just by adding numbers but by a serious organisational review. We are investing very heavily in—

Q128 **Chair:** Timeframe on that review?

Dame Julia Unwin: It is not a review; it is a programme of work that will take place over the next—



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Chair: You just referred to a review, Dame Julia.

David Holdsworth: We have reviewed the organisational design, Chair. Coming into the Charity Commission, I saw that it has been used to having its experts grown in-house over long periods. In the years before I arrived, attrition was at 24%—the organisation was losing a quarter of its expertise a year, which is unsustainable—and we are now down to 7%. We have invested in our training and technical skills, and last year a new training academy was launched. We are also looking at the structures of the organisation, as well as some of the key responsibilities and capabilities.

Q129 **Chair:** When do you envisage that, as an outside body, one might notice a change in the MO of the commission?

Dame Julia Unwin: I would hope that you will start noticing it soon. We cannot pretend that a major investment like that and an increase in staffing will be without bumps, but I think that, even now, you would see some changes in how the commission is viewed. There have been very major, significant and time-consuming challenges of the sort we have been discussing today, but there has also been significant progress in our connections with a very wide range of charities and, I would argue, our connections and engagement across Government. If you want a timeframe, I can't tell you that—

Q130 **Chair:** Is that end of quarter 4 '26? Is it end of quarter 1 '27? The board surely must have put a drop-dead date on this that those who are conducting reviews and so on are working backwards from.

Dame Julia Unwin: We have an investment programme that takes three years to deliver. We have an internal change board, on which two of my independent board members sit, which is reviewing that every single month. We are making the progress that we can. I do not think that there is a miraculous moment where we say, "All is done"—we regulate an extraordinarily complex sector—but I think we will improve.

Q131 **Chair:** Have you triaged the issues?

Dame Julia Unwin: Very much so. David has been doing a great deal of that.

David Holdsworth: It is increasing the level of capability and expertise, it is investing in our technology, and it is moving to the proactive space of regulation, which has greatly reduced because of the reduction in resource in recent years.

Chair: I am conscious of time. We have a number of formal questions. We have dealt with a number of thematics in response to what we have heard, and you will understand why we have done that. We will write to you with outstanding questions and would appreciate a formal written submission, ancillary to that which we have already agreed. Mr Quigley.

Q132 **Richard Quigley:** I will be brief. To bring it back to the reason we are here, there are two victims, for want of a better word, who have both



waived their right to anonymity: Ms Hall and Mr Murray. In Ms Hall's words, "The Charity Commission's repeated failures have caused me profound pain and ongoing injustice. Instead of holding a trustee to account for appalling sexual exploitation, it questioned my experience and forced me to relive my worst trauma. How can survivors feel safe reporting abuse if they think they will be treated like I have? By trying to block Parliament from seeing the reports, the Commission attempted to avoid scrutiny—striking at the heart of accountability in our democracy. Even now, it refuses to accept responsibility or act to put things right."

In Mr Murray's words, "For over seven years the Charity Commission has refused to act upon my complaint about the concealment of child sexual abuse. The Charity Commission has doggedly resisted all efforts by me, and latterly the Parliamentary Ombudsman, to encourage it properly or promptly to discharge its statutory responsibilities, choosing rather to shield the charity and its Trustees from scrutiny and accountability."

I don't think apology gets even close. How do you assure Ms Hall and Mr Murray that there will not be statements like that in the future?

Dame Julia Unwin: I don't think apology is enough, but I have, and I will again, apologise on the record on behalf of the commission for the ways in which both Mr Murray and Ms Hall were treated. I have met Ms Hall and I have said that to her in person. Can we give assurance that it would never happen again? I very much hope so, but I know enough to know that terrible things are happening and we may not always get it right. But we are learning and have learned the lessons of these very sad and very poorly handled cases, and we are aware of the grief that has been caused and we are deeply sorry for that.

Q133 **Sam Carling:** I want to tie off a couple of technical questions. One of the PHSO's key recommendations in Ms Hall's case was for you to undertake an internal review using staff who were not previously involved at all with her case. Ms Hall alleges in her written evidence that she discovered later on that a person who was in attendance at a meeting with the reviewer for notetaking purposes had prior involvement with her case. That seems like a pretty glaring error. Do you have a response to it?

Dame Julia Unwin: I know that Mr Baker is ready to answer on that review and how we did it, in my view, entirely independently, but I didn't know about this.

Nick Baker: I can confirm that the caseworker chosen was a senior caseworker independent of the original investigation who was allowed to complete the recommendations without interference from senior management, so it was independent. I am not sure about the specific issue that you are talking about in terms of the notetaker.

David Holdsworth: If you write to us, we will respond.

Sam Carling: Yes. I do not want to name the person publicly, because they are a junior member of staff.

Nick Baker: My apologies; I have no awareness of that.

Q134 **Sam Carling:** That is fine, but if that does turn out to be the case, it does fly in the face of the PHSO recommendation that it be independent. Senior management may not have been involved, but surely you would want to make sure that all the staff are separate. It seems as though there is at least agreement in principle on that.

David Holdsworth: And that was my understanding, as well as the provision of an independent safeguarding barrister to provide advice to that internal independent reviewer. We will revert—

Q135 **Chair:** And you will have a record of who handled that review.

David Holdsworth: Yes.

Chair: Which won't require Mr Carling to write to you to request it. Just take it as a request from the Chair to provide it to us.

David Holdsworth: What we are saying is that we know the independent reviewer was outside of the case, and we know that the safeguarding barrister was not used before, but if there was a notetaker in a meeting, we would need the specifics to—

Sam Carling: I will come over and speak to you afterwards and give you that.

Q136 **Chair:** Yes, exactly, but take that as a formal request to confirm or refute.

I am not Mystic Meg, but something tells me we may be inviting you back to the Committee at some appropriate point in the future. I want you to take away, please, what I meant very sincerely: we are here to scrutinise and to gather evidence, and where we are persuaded of the merit of legislative or statutory change, we are here to make that argument to Government managers, Ministers and others. It was a sincere offer in order to improve the landscape in which you are operating. If you do not wish to avail yourself of the invitation, we will not be offended, but if you wish to share, either in whole or in part, the requests that you have made to Ministers, when those requests were made and what response you have gleaned up until now, we will be very happy as and when to pick up the case with Ministers to augment the argument.

I thank you and also our PHSO witnesses this morning. I leave you with just one further thought. The power of boards is very often understood in the abstract, but earlier in the year, this Committee dealt with a situation where a board did not quite realise its full function, its full remit and its full powers, and that led to a fairly catastrophic failure. I suppose this is a final question: within your review of the broad landscape of operation, are you providing in-depth training to board members, both current and incoming, on precisely what their powers and freedoms are in order to avoid very damaging groupthink and the attitude, "Oh, well, the professionals have said this, so we are just a tick-box exercise"? No board is just a tick-box exercise.

Dame Julia Unwin: When I was interviewed by a Select Committee about taking on this role, one of the major points I talked about was the role of



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governance, the changing response to governance and the importance of getting it right. We are embarking, as are all boards in Government, on a board effectiveness review, and I have asked the reviewer to be particularly alert to how we have been dealing with and managing difficult decisions, but it is my commitment to make this a really active, engaged and properly effective board.

Chair: Thank you very much, Dame Julia, for that, and I thank your colleagues for appearing before us today.