



# HOUSES OF PARLIAMENT

## Joint Committee on Draft Modern Slavery Bill

Oral evidence: [Draft Modern Slavery Bill](#), HC [1019], Thursday  
6 March 2014

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Members present: Baroness Butler-Sloss (Chairman), The Lord Bishop of Derby, Baroness Doocey, Baroness Hanham, Lord McColl of Dulwich, Michael Connarty, Sir John Randall and Sir Andrew Stunell

Questions [1056 - 1153]

*Witnesses:* **David Anderson QC**, Independent Reviewer of Terrorism Legislation, Brick Court Chambers, and **John Vine CBE QPM**, Independent Chief Inspector of Borders and Immigration, examined.

**Q1056 Chairman:** You are both extremely welcome. We are most grateful to have you here. As you know, we are spending this part of the afternoon looking at the anti-slavery commissioner. I may say immediately that we appreciate that the jobs each of you have are quite different from what is intended to be an anti-slavery commissioner, but there may be some aspects of what we want to put into the Bill that are relevant to all sorts of commissioners, inspectors and so on. It is that part which we will find particularly helpful from both of you, but we are well aware of the differences.

Would you be kind enough to give your names and who you are, just for the record?

**John Vine:** I am John Vine. I am the Independent Chief Inspector of Borders and Immigration.

**David Anderson:** I am David Anderson. I am the Independent Reviewer of Terrorism Legislation.

**Q1057 Sir John Randall:** Is your independence a reflection of the legislation for your office; is it the conventions and traditions of independence that have been established by previous officeholders; or do you think it is just the way the role has been created and has developed over the years?

**John Vine:** In my case, there were no previous incumbents in the role. My job was to set up and establish an independent inspectorate for borders and immigration from scratch. The word “independent” does not feature in the legislation. The legislation just talks about the chief inspector of the then Border and Immigration Agency, as it was in 2007 in the Borders Act.

The independence derives from both the combination of the legislation and the approach that the officeholder brings to it. I was very clear from the start, particularly in the circumstances in which the legislation was passed and the inspectorate came about—there had been a great deal of public concern about immigration at the time—that it was important to establish a very independent approach to it, an evidence-based approach, and to establish independence in people’s minds from the start. I introduced the word “independent” into the title, and it was endorsed by the then Home Affairs Select Committee. That was simply because sometimes when I went to speak to people it was difficult for them to separate my role in their own minds from that of the Border and Immigration Agency.

Postholders of previous inspectorates, for example, had held a royal warrant. There had been Her Majesty’s Inspector of Constabulary and Her Majesty’s Inspector of Prisons. Around the time of the inception of this, there was some suggestion that those would be merged into one super-inspectorate. That was not considered for my particular role. We took steps to try and establish in people’s minds its independence from the start.

**David Anderson:** The word “independent” is scattered through the statutes that acknowledge my existence, but very little else is said. There are no procedures and no institutional safeguards of that independence. It really comes from the people that they have appointed over the years. There has been a healthy tradition of not appointing people, for example, politically aligned with the Government of the day. Initially it was hereditary peers, and more recently it tends to have been QCs and so on—the Bar.

**Q1058 Sir John Randall:** Going back to Mr Vine, to reiterate, in the legislation it does not specify “independent,” but you decided that, in order to clarify your position when you were going around doing your job,

you took that on and it was subsequently endorsed by the Home Affairs Select Committee.

**John Vine:** It was, yes. It has become the title of the role. In fact, the title of the role has changed. As the organisation has changed its name, we have now adopted, from the abolition of the Border Agency, the title Chief Inspector of Borders and Immigration.

**Q1059 Sir John Randall:** How much do you think the process of your appointment was relevant in establishing your independence? Mr Anderson has already explained a little bit, but just on your appointment.

**David Anderson:** The process of my appointment was rather quaint. I was tapped on the shoulder by three secret people who came to see me in Chambers under the pretext of wanting my legal advice. It was wonderful but indefensible, and it won't happen again because the job has now been made a public appointment, which as I understand it means that a fair, open and transparent process is applied to obtaining a shortlist. It is then for Ministers to choose from the candidates on the shortlist.

**Q1060 Sir John Randall:** Mr Vine, were you tapped on the shoulder?

**John Vine:** I was not tapped on the shoulder, no. I applied in a fair, open and transparent selection process. I think 32 or so people applied, and I was selected following a competency-based interview.

**Q1061 The Lord Bishop of Derby:** Drilling down a little bit further in terms of independence, I want to ask about resourcing and then reporting. In terms of resourcing our anti-slavery commissioner, it is envisaged as the Bill stands that the staffing will be provided by the Secretary of State. I would be interested to know, for each of you, who chose and appointed your staff.

**John Vine:** Commenting on the way I established the inspectorate, at the very start it was a beg, steal and borrow process, mainly from the wider civil service, not exclusively the Home Office; for example, I was able to advertise for staff in newspapers in order to get a good mix of skills, and I did, in 2009. Generally speaking, because the Home Office was the sponsoring department, it was logical for me to take the support that the wider Home Office gave in terms of personnel management rather than set up my own personnel department and thereby waste resources on setting up bureaucracy which could be lent from elsewhere.

In the main, the staff come from the Home Office, parts of the agency that we inspect but also from the wider civil service. Having said that, I

brought in secondees, for example from the Serious and Organised Crime Agency to help us with particular inspections in the past; and I brought in subject expertise from elsewhere if I thought that would benefit the production of a good quality report that would lead to improvement.

**Q1062 The Lord Bishop of Derby:** And that was your initiative in scoping out how to staff your department.

**John Vine:** Yes, it was entirely my choice.

**The Lord Bishop of Derby:** That is interesting. Thank you. David?

**David Anderson:** I do not have any staff but I was told I would have some research assistants. When that did not materialise, I went to the top of the Home Office and asked if I could have a special adviser. I was allowed to appoint a very distinguished professor at the University of Leeds, who gives me an hour and a half a week, which is worth about 30 of anybody else's hours. I would consider it essential that I should make that decision myself, but that is because my role is a very distinctive one, as Baroness Butler-Sloss said at the start. I have to write reviews in a field where many people think there should not be any anti-terrorism laws at all. There is a lot of controversy about whether they go too far, perhaps rather unlike the anti-slavery field. I do not know exactly what the Committee envisages, or Parliament will envisage, in the anti-slavery commissioner, but if the idea is that that person should be in some way more of an adjunct to the law enforcement process, I imagine that perhaps the need for the commissioner to appoint his or her own staff might be reduced. It depends very much on whether you are looking for a watchdog or a tsar.

**Q1063 The Lord Bishop of Derby:** It is very helpful to have two models with a bit of scope to establish your own resource base. I want to ask about reporting. In terms of the thematic reports you produce, to what extent can you choose and initiate the topics? Do you feel totally free to do that, or are there constraints and shapes that you have to observe?

**John Vine:** For my part, I feel totally free to do so. As I see it, I have been appointed to bring my experience and judgment to bear on what I should look at. I have established a number of bodies that enable me to receive evidence about what I should look at. For example, this morning I was chairing a refugee and asylum forum that I established about four years ago with representatives of the refugee and asylum communities. They express an interest in particular parts of the immigration business.

Equally, I have forums for the airline industry. I meet regularly with the higher education sector, the shipping sector and so on. I use my

judgment. I look at areas of significance. I take into account what important stakeholders have to say about immigration. I am required by the legislation to put together a plan on which I consult the Home Secretary, but I am at liberty to vary the plan, if I so wish, throughout the year. I certainly feel totally at liberty to pick the thematic areas I wish to scrutinise.

**David Anderson:** I am hemmed in to some extent by statute, because I am required by statute to do three reports every year on some fairly wide-ranging Acts of Parliament, although there is scope to be selective in terms of what one covers in detail in any given year. Beyond that, nothing is written in statute. There is a helpful reference in *Hansard* from the Home Secretary in which she acknowledged that I do have the right to write reports on my own initiative. Both my predecessor and I have done that. They have not so far been wide-ranging thematic reviews; they have been reports on specific police operations.

**Lord Bishop of Derby:** It is very helpful to know the space you have had to exercise independence in the reporting process. Thank you.

**Q1064 Sir John Randall:** To clarify, Mr Vine, there was no question of the Home Office saying, "These are some very good people; you'd better have them"?

**John Vine:** No, not at all; in fact, quite the contrary.

**Q1065 Chairman:** I want to take you to clause 31 of the Bill, the general functions. Under sub-clause (5) it says, "The Secretary of State may direct the Commissioner to omit from any report before publication any material whose publication the Secretary of State thinks is undesirable for reasons of national security, might jeopardise an individual's safety or might prejudice the investigation or prosecution of an offence." That is all, of course, a decision of the Home Secretary as to what it may be. Do you have any such restrictions, Mr Vine, on your reports?

**John Vine:** Yes. I have a similar restriction in the legislation that covers my role. It is contained in section 50(3) of the Borders Act 2007. It provides very similarly for the Home Secretary to redact any part of my report that she thinks is in the interests of national security.

**Q1066 Chairman:** What about the other two? There are three points. Is it only national security in your case?

**John Vine:** No. There is also provision for her to do so if an individual can be identified from reading my unredacted report. Redaction has occurred on four occasions, at least in varying parts. It was used in my report on border control in 2010, which was a commission from the

Home Secretary following a report I produced on Heathrow airport. It has also been used in my report on juxtaposed controls last year, which is the arrangement between Britain, France and Belgium in border control across the channel. It was used in my e-borders report, published in August last year, and most recently in my report on freight handling which was published in November last year.

**Q1067 Chairman:** David, you, of course, are in a rather special position because you are dealing with issues of security anyway.

**David Anderson:** But despite that, on the face of the statute I am unfettered, in that my duty is simply to provide a report to the Secretary of State who "shall lay it before Parliament" on receipt. The reality is that I will ensure I provide a copy perhaps three weeks in advance so that it can be security checked. If the intelligence agencies want to suggest to me that there is something I should not say, well, of course I will listen to that and I will normally go along with it, though sometimes we do get into a dialogue about it. I do not think anyone has ever pressed the issue of what would happen if we disagreed.

Might I just make one analogy that could possibly be useful to the Committee? My function also exists in Australia but in a more modern form. It is the subject of an Australian Act of Parliament called the Independent National Security Legislation Monitor Act 2010. That has a very interesting difference of approach. Section 29 of that Act provides that it is for the monitor himself to decide whether there is information that might prejudice national security or endanger a person's safety, having consulted the Ministers concerned. Under that scheme, even in the national security field, the reviewer is given the ultimate authority.

Since you ask about the clause, the other thing to say is that, even if one accepted a need for the Home Secretary to have a power to direct the exclusion of national security-sensitive information, I would be a little wary of the word "undesirable," which seems to give the Home Secretary a very broad discretion.

**Q1068 Chairman:** Yes. That is why I read it out; it is very broad.

**David Anderson:** One could imagine words along the lines of "any material, the omission of which is necessary in the interests of national security." That might be more palatable.

**Q1069 Chairman:** Coming back to you, Mr Vine, when you had redactions on your four reports, has it been made clear on publication that there have been redactions and, if so, why?

**John Vine:** It has been made clear in the publications where the redactions are. It is worth mentioning that the redactions don't go away. I require the Border Agency and the Home Office to respond to

the recommendations I make in the reports, and I expect them to report back to me on the progress being made in respect of the redacted parts of the report as well. It is very important from my perspective. I report to the Home Secretary on what I find, and if she then wishes to make a decision about redaction that is entirely her prerogative. I would follow up on the redacted parts of the report and expect to see progress being made against them.

**Q1070 Lord McColl of Dulwich:** Who decides how and when your reports are laid before Parliament, and does this have any impact on your independence? I refer to your annual report and reports on specific issues.

**John Vine:** The Home Secretary lays all my reports before Parliament. I do not believe that has any impact on my independence. I will respond to press queries and issue a press release once the report has been laid. Obviously, I tell the story of the report once that has happened. I do not feel that it has any impact on the independence of my role at all.

**David Anderson:** This is quite a sensitive issue for me. In an ideal world I would hope for a bit more support from statute. Statute only says that my report shall be laid before Parliament on receipt. The Security Minister, Mr Brokenshire, helpfully explained in the House of Commons when questioned by Hazel Blears, that that meant promptly, which is very gratifying. Indeed every time I have submitted a report to the Home Secretary, so far they have been laid before Parliament within three weeks. However, that has not always been without a struggle. One senses there are people—I suspect they are special advisers rather than Ministers or civil servants—who have a different agenda and who are interested in news management, and who might therefore suggest that it might be sensible to lay it on a day when something else is happening, or at a far distant day. I think that would be very undesirable, because it would diminish the force of the reports. Again if I may, there is perhaps a good parallel in Australia. It is again section 29 of that Act. It requires a copy of each report to be presented to each House of Parliament within 15 sitting days after the date of receipt. That way everybody knows where they are.

**Q1071 Baroness Doocey:** You have touched on this, but I want to explore it a bit further. When you publish a report, how do you ensure that the recommendations are considered and enforced? You said earlier that you require a response, Mr Vine, but do you have a statutory right to receive a response from Government?

**John Vine:** No, I do not have a statutory right. What is important is that the inspector has to have credibility and influence. I cannot



enforce anything from the recommendations I make. What I can do is ensure that the recommendations are so clearly supported by evidence that it is difficult for the receiving body to deny them and not to accept them. In all, I think about 97% of the recommendations I have made have been accepted. What I ask for is an update on a six-monthly basis as to what has happened or changed on the ground as a result of the recommendations being accepted. I do follow-up inspections to see for myself that something has changed. I will report back to the Home Secretary or to the Home Affairs Committee accordingly; or I will choose to re-inspect that area when I look at a port next time round. I think the role of an inspector is very much to have influence and a degree of credibility, and that stems from the thoroughness of the reports that are produced.

**Q1072 Baroness Doocey:** Basically, you think that, if the recommendations you make are so compelling, it is almost certain that they are going to be accepted. Is that right?

**John Vine:** Yes. I triangulate everything before I put in a recommendation. When we are going through a draft report I will take out recommendations if I think they are de minimis and not substantive, and just leave the organisation with things I think will make a real difference. Inspection is about improving things, or it should be about improving things.

**David Anderson:** I always receive written responses, which is very welcome. I do not receive them as of statutory right, but why not build them into statute? That is something they did not do in Australia, and I believe my Australian counterpart has not received written responses to his recommendations. That would be a nice assurance to have. They have not always been timely, however, and their quality was criticised this January by the Joint Committee on Human Rights. I do not think one can legislate to ensure that.

In terms of influence, I agree very much with what Mr Vine said. I would add that influence is often indirect. I recommend things without any regard to how politically likely it is that they will be implemented or not. For example, I recommended that people arrested under the Terrorism Act 2000 should be eligible to apply for bail. I am not aware of any politician who has ever expressed any sympathy for that—just as I am not aware of many lawyers who think it is a bad idea. That idea is also being litigated in the courts. Other ideas might be picked up by Committees of Parliament, so they might take a more indirect route to the goal.

**Q1073 Baroness Hanham:** I want to ask about the detail in terms of the statutory functions you have that are in the Bill. I think they



vary between the two of you as to how much detail there is. In our Bill, section 31 gives quite detailed details of what the commissioner should do. In terms of the detail, do you think it is an advantage to have statutory details of what to do, or is it a limitation on what you can do? Or can you get round the statutory requirements by doing something anyway?

**John Vine:** If I just talk about the list of things in the Borders Act that I have to take into account, it is contained in section 48. There is a long list of responsibilities. That section talks about me monitoring the efficiency and effectiveness of the Border and Immigration Agency, consistency of approach, practice and performance and treatment of claimants and applicants. I think that is quite helpful, in that I have always thought it is very difficult for the public to understand end to end what the UK Border Agency does.

Coming from a police background, it was always easy for people to understand what police do, but when it comes to the Border Agency and what is now the immigration part of the Home Office, the extent of it is very difficult, whether it be people applying for entry clearance and that being approved or denied, asylum, immigration casework in the UK, border control, and removal of people who have no right to remain in Britain. Section 48 of the Borders Act was written to try and encompass it. It followed on from a period where there had been independent monitors appointed by Parliament to look at various parts of the immigration system, usually where parliamentarians considered that there had been a human rights failing. There is an independent monitor on race; an independent monitor looking at complaints handling; and an independent monitor looking at visa refusals where there was no right of appeal. I think that list is helpful. There is also a part of it which says that I can compare the Border Agency with other people doing similar things.

**Q1074 Baroness Hanham:** There will be a lot of those.

**John Vine:** But that is quite helpful, because it gives me quite a lot of scope to interpret that accordingly. Does that mean other immigration services? It might mean other Government Departments who have good practice. It may be a commercial organisation that has good practice in terms of dealing with volumes of casework. My answer is that it can be both.

**Q1075 Baroness Hanham:** Basically in terms of the width of your responsibilities, the Borders Act does give you a lot to do.

**John Vine:** But there was a rationale for it being like that at the time.

**Baroness Hanham:** I sat on it so I remember it well. Anyway, you have found it more helpful than unhelpful to have this statutory list.

**John Vine:** Yes, although some of the things in the list are out of date now. The role is quite interesting, because it is an efficiency and effectiveness role. Is this organisation efficient, effective and using public money properly? It also has a strong human rights focus. Are people being treated fairly? Are the human rights of people being addressed? Are the immigration authorities acting within the law in going about their business? It has both in it.

**David Anderson:** I see three models. The shortest is mine. I am simply told to review the operation of the statute, which is wonderful for me but not much protection for anybody else against me going rogue. At the other extreme is section 6 of the Australian Act that I mentioned. The functions of the independent monitor are set out and they take a full page. They are extremely precise. Somewhere in the middle is your section 31(2), which perhaps is a happy medium.

There are perhaps two particular reasons for spelling things out in a little detail with this particular job. One is that one needs to be sure what the job is for. As I said earlier, is it a tsar or is it a watchdog? Having read the various materials, I am not entirely clear in my own mind which it is designed to be. The second is that, if you are in an area where there are other commissioners, watchdogs or tsars with closely related responsibilities, I can see that it would be very useful to define so far as possible the borderline.

**Baroness Hanham:** Thank you very much.

**Q1076 Michael Connarty:** How important is the collection of data to your role—in other words, the actual analysis of the ongoing situation? Who collects it? Do you direct the collection of data and the analysis of data? Do you think it would be an important role of any commissioner in the human trafficking field to be responsible for data collection as well as enforcement?

**John Vine:** In terms of my role, it is very important that we have data. I have commented in many reports in relation to the Border Agency about the poor quality of some of the data. I think that has improved, but I have always been able to request and receive the data. I do not think I have ever needed the power to demand data. I have a protocol with the Home Office in relation to the supply of data and the times within which I generally expect it to be provided and the form in which it is provided. It is very important at the start of any inspection to look at the metrics of the part of the organisation you are inspecting. That very often affects the fieldwork phase of the inspection. Clearly, if we are spending resources on going to Heathrow airport to look at a part of Heathrow airport, to take that as an example, or any part of the immigration system, the data collection part of the inspection informs what we do at that stage of the inspection process.

**Q1077 Michael Connarty:** Mr Vine, the hearsay evidence of the NGOs is that there is a pattern whereby the UK Border Agency sends home lots of victims of trafficking who are from non-EU countries. They said to me that they thought it was racist. How do you analyse that? I do not know whether you have ever been asked to work out whether that is a correct accusation or not. How would you have oversight of how the UK Border Agency is operating, and if it is interfering with the process of victimhood by just sending a certain group of people home? Would you have that analysis?

**John Vine:** Let me disclose some of the methods that I use. We do a lot of file sampling. To take that example, I would specifically ask for a randomly selected file sample. We use a random number selection methodology. We will ask for files for a particular type of case to be provided to us so we could analyse that particular cohort of files. In any particular inspection, we might have several cohorts of files which we ask for and which probe certain parts of the immigration system. In addition, when I am on inspection, I usually hold surgeries where people can come and speak to me privately in locations where there is confidentiality. We have focus groups of staff who are not in the presence of their line manager. We do not take details of who they are. We have a structured interview process. I also conduct unannounced and short notice inspections. Only last week, or the week before, we knocked on the door of the asylum office in Cardiff at 9 o'clock in the morning with a team of inspectors and we inspected them for the day. The Home Office had no idea that we were going to turn up. There are methods like that that we use in order to try and ensure that there is public confidence in the findings of my inspection reports.

**David Anderson:** I agree. Data are key to everything. A lot of data are collected in the field of anti-terrorism law. I have sometimes persuaded the Government to collect more data. I have also sometimes persuaded them to publish more data. I would be a little reluctant though to have a power to direct that data be collected, partly because I find people as obliging as they could possibly be—indeed, without that one questions whether a job of this kind could work at all—but also because one is conscious that things that seem desirable to me might be extraordinarily resource-intensive if somebody actually had to go about collecting them. For example, you mentioned ethnicity. The way that ethnicity is classified for some terrorism purposes is still terribly crude. If you are from the middle east or north Africa, you have to tick the box saying, “Chinese. Other.” It would be very easy to say, “Couldn’t you go on to one of the more modern systems of classification that already operate in different fields?” I have indeed recommended that, and they have said that they will do their best. It has also been made clear to me that this would be an extraordinarily expensive operation. If you

give an independent person the power just to click his fingers and say, "In future you are going to do it that way," you effectively skew the allocation of resources without allowing for the fact that you need some sort of overall oversight of how money is being spent.

**Q1078 Sir Andrew Stunell:** Mr Vine, I have had occasion for other reasons to read some of your reports. They are very hard hitting and to the point. I have also had cause to visit some of the premises that you inspect. Our clause 33 talks about a duty to co-operate. I could well imagine some of the people who, if I can put it this way, are the victims of your reports being somewhat reticent. Do you have a view about the duty to co-operate that we have in the Bill, the duty to co-operate that you can operate and any advice you would give us about how we might proceed?

**John Vine:** I do not think I can comment on the draft legislation. I do not think there are any "victims" of my reports.

**Q1079 Sir Andrew Stunell:** Targets.

**John Vine:** No. I get a lot of co-operation from the Border Agency and what are now the directorates. What I try to do is foster a good relationship between the inspectorate and the client bodies—the directorates in the Home Office—as far as I can while maintaining an independent overview of their work. My view, and it is born of 30 years' police experience as well, is that it is important to embrace inspection as an opportunity. Sometimes it is very difficult of course, when I produce, as you have described it, a hard-hitting report, but it flushes out into the public domain issues that I think should be there. One of the things I am very proud that we have achieved is that we have put a lot of information about an area of public policy into the public domain for other people to use—for anybody to use—to hold the directors-general and senior staff to account for performance.

It is very important for me to continue to have that dialogue with senior people in the Home Office. I will use my judgment; for example, if I feel that we have been in this part of the Home Office or this part of the Border Agency and Immigration Service too much, then maybe we will look elsewhere. We are proportionate in our scrutiny. Those words are not in my remit, but it is something that I exercise anyway because I just think it is good practice.

**Q1080 Sir Andrew Stunell:** Do you think your powers are satisfactory? What would you see as being a model for the duty to co-operate by other public bodies?

**John Vine:** I think it goes back to the point I made about having influence, and the point that David Anderson has made as well. I have not needed something specific in the legislation in order for me to get the co-operation I need to do my job effectively.

**David Anderson:** The co-operation that I have received from public authorities has been conspicuously good. I would include in that not only the Government Departments but the police, prosecutors and the intelligence agencies. If I ask for something I get it. That may partly be because in both of our minds is the suspicion that, if I did not get it, I might tell a parliamentary Committee or I might even mention it to the media, but I do not think we have ever come to that point, and that seems to me a very healthy thing.

Would I feel that something like clause 33 would give me extra reassurance? I do not think so. It pretty much restates the position as it is, but there is that rather broad caveat “so far as is reasonably possible.” I can imagine that if we did get into any sort of tension or conflict on this subject people might start trying to give that phrase a rather broad meaning. Of course, with the Health and Safety at Work Act it is always given a rather narrow meaning, but none the less it is a phrase with quite a bit of wiggle room in it. May I mention for the last time the Australian Act? It is quite a useful perspective. You have someone with an identical function to me.

**Chairman:** Don’t worry about mentioning it; it is extremely helpful.

**David Anderson:** It might be worth turning up. It makes the flesh creep, because he also has a right to request any document he wants. He can require anyone he wants to attend a hearing and he can require them to answer his questions. Failure to do any of those things is stated in the statute to be punishable by up to six months’ imprisonment.

**Q1081 Chairman:** The Finnish rapporteur was giving evidence to us this morning by video-link. She said that she had the right to have classified information as well as any ordinary information. Mr Vine, could I particularly ask you whether you have had any sort of problem with documentation about which a public authority has said, “No, I would rather not show you”?

**John Vine:** No. It is a condition of my appointment that the incumbent is security cleared to DV level, which is the most senior level. I have a number of members of my inspectorate cleared to that level as well. There has been no difficulty in receiving that level of classified material and our dealing with it, inspecting it and writing a report accordingly.

**Q1082 Chairman:** I want to take you to our last question and to ask you particularly, Mr Vine, about an inspection you did into the handling of asylum applications made by unaccompanied children. You said in your report that while "Home Office staff were committed to the welfare of children in the asylum system and worked effectively with local authorities to ensure they were safeguarded...there were significant inconsistencies in the timing and outcome of applications." We, of course, are looking at trafficked children as one of the group of those who are victims. Do you think there are any matters within your report, or indeed within your experience, that you would recommend that we should consider in relation to this Bill?

**John Vine:** There are a couple of recommendations in the report that I think are relevant. First of all, we found that the requirement on the Home Office to fulfil their obligation to trace family members was only being completed in 60% of the sample of cases that we looked at. There is an opportunity there to find out more about the circumstances in which these children arrived in the UK. Similarly, we found that the arrangement the Home Office had with the Refugee Council to delve into the circumstances of children who emerged as unaccompanied asylum-seeking children was not being completed, yet quite a significant amount of public money was being paid to the organisation to do so.

The purpose of the screening interview that occurs when an unaccompanied asylum-seeking child comes into contact with the authorities was being reviewed. There is perhaps an opportunity to use the screening interview to try to establish whether the child has been trafficked. At the moment the Home Office are reviewing the purpose of the screening interview. There are some organisations who think it should be done away with because questions about the asylum claim cannot be raised at the screening interview. There is some—not confusion but lack of clarity about its purpose.

**Q1083 Chairman:** What sorts of questions get asked in the screening interview?

**John Vine:** They are questions around how the child has come to arrive in the UK. What we found in the report was that well over 90% of the children in this category are already in the UK. They are not children who have been encountered at the ports. They are children who have made themselves known to the authorities, and have already been brought into the country, in many cases illegally.

The other thing of interest is that in my recent reports on ports of entry I have been saying that we need to maintain the effort in customs work and in searching vehicles. It needs to be maintained, not least to try and discover people who are being transported into the UK in containers and



in the backs of lorries, and arriving at ports such as Dover. Traditionally, that effort has been maintained in order to find contraband goods—drugs and the like—but I think there is an increasing need for that effort to be maintained in order to discover people being trafficked into the UK.

**Q1084 Chairman:** That would particularly be at the ports rather than at airports, wouldn't it?

**John Vine:** That would particularly be at a port like Dover.

**Q1085 Michael Connarty:** Are you a tsar, or the definition that Mr Anderson used; what do you regard yourself as, Mr Vine? Are you a tsar, as you said in the box you put in your evidence? Is that different from someone who is overseeing—the role of assessor in a sense?

**David Anderson:** I am a watchdog. All I do is read, talk to people, assess, state conclusions and make recommendations. I have no executive power.

**Q1086 Michael Connarty:** Do you think that human trafficking requires a tsar or just an overseer?

**David Anderson:** I am afraid that is beyond my competence to advise on. All I would say, if I may make so bold, is make it clear which one it is.

**Q1087 Michael Connarty:** Mr Vine, are you a tsar?

**John Vine:** I do not regard myself as a tsar, no.

**Michael Connarty:** I know it's a terrible phrase. I do not know where it came from but it has become commonplace.

**John Vine:** I regard myself as an inspector. My role is to examine the efficiency and effectiveness of everything to do with borders and immigration, and to make recommendations which I think are going to improve the outcomes for the users of those services, whether they be asylum seekers, the travelling public, people who want to seek entry to the UK to study or do business or whoever.

**Q1088 Michael Connarty:** Do you have a view on whether the modern day slavery situation requires someone to be in your capacity or just—

**John Vine:** I think that is beyond my pay grade. I do not have a view on it.



**Chairman:** That is very tactful of you, Mr Vine. I thank both of you very much indeed. Your evidence has been extremely helpful to us. It is just what we wanted to know about.

### **Examination of Witnesses**

*Witnesses:* **Nadine Finch**, Barrister, Garden Court Chambers, and **Chief Inspector Colin Carswell**, Metropolitan Police, examined.

**Q1089 Chairman:** I am happy to say I go back a long way with Colin Carswell. We worked together in, among other places, Romania when the police were very much involved in Operation Golf, which was an extremely successful Metropolitan operation, largely due to you.

**Chief Inspector Carswell:** Thank you very much indeed, Ma'am. It was an absolute pleasure.

**Q1090 Chairman:** Would you both give us your names and position, purely and simply for the record?

**Nadine Finch:** I am Nadine Finch. I am a barrister at Garden Court Chambers. I also do quite a lot of work in Europe now on children's rights, particularly around trafficking and other unaccompanied minor issues.

**Chief Inspector Carswell:** I am Colin Carswell, a chief inspector in the Metropolitan police. I have led a number of investigations involving the human trafficking of children for forced criminality.

**Chairman:** May I just say to the members of our Committee that we have managed to be completely to time, but we only have half an hour for these two witnesses and half an hour for the last two. Could we keep our follow-up questions snappy and not too many?

**Q1091 Baroness Doocey:** There seems to be a much lower prosecution rate in cases where children have been trafficked for labour or criminal exploitation compared with sexual exploitation. Do you have an explanation for that?

**Chief Inspector Carswell:** Yes. There has been a long history of an understanding of sexual exploitation of both adults and children, going back many years. It is only in recent years that we have seen the phenomenon of the exploitation of children for labour, which in my particular sphere of expertise would be begging, stealing, car washing

at crossroads in various parts of the country and things like that, and that it has been accepted as exploitation.

The victim perception is very important. For someone who has been victimised through sexual exploitation, quite often they are an adult or even a child exploited by strangers or by people they do not know. They are scared of them but they have no loyalty towards them. The perception of children in forced criminality is a different picture, in my experience. Children are sometimes being exploited by family members, and most certainly by members from the same community or ethnic background, so there is an affinity. The child may not even realise that they are being exploited. They may have had it normalised to them so that they see it as perfectly acceptable and reasonable when, clearly and frankly, it is not.

There is also a lack of understanding from the police in general and other agencies about whether or not this is exploitation. I have come across incidents of misunderstanding of what would be cultural norms and acceptable. Exploitation is exploitation; it cannot be dressed up as a cultural norm. I do not think that the current legislation we work with is particularly helpful in this way. That is why we are here. It is not clear in the Act what exploitation is. We are referred to other legal areas as to what the definition of exploitation is and what crime it is. Of course, it is anything where someone benefits from the work of another, so it is quite easy when we unpack it.

With the police and social services, if a child does not disclose—"I am not happy" or "This is wrong"—then too often in this field they will take it at face value and say, "Well, they are 14 and they're only doing a bit of begging or stealing. They're not in distress; they're not saying they've been forced or coerced." We all accept that is irrelevant, although it is not written down in black and white. I think that is a weakness. I would welcome the clarity that the new draft Bill would bring. With the exploitation of a child we do not need to refer to the Palermo protocol. We should have it in our own legislation that a child does not need to be forced or coerced to be trafficked.

**Q1092 Baroness Doocey:** You said you would welcome clarity from the new Bill. Do you think that the new Bill sufficiently covers all possible situations involving children in begging, forced labour or whatever else?

**Chief Inspector Carswell:** I think the Act is weak because it refers us back to article 4. It does not make it clear that this includes but is not wholly X, Y and Z. If I was reading this from a lay perspective, I would not read into this Bill that a child begging, or using children to obtain fraud which is to their detriment, or putting a child out on the street to steal for sometimes 12 to 18 hours a day is trafficking and exploitation.

**Nadine Finch:** I would agree with Colin that there needs to be a separate offence. If you look at clause 1, it is talking about forced labour. It is very difficult to prove that some children have been forced. As Colin says, they may be part of a family. They may also be Chinese or Vietnamese children who have been trafficked over here, but their culture is to accept what an adult member of the community says to them. Even though what they face here is beyond their wildest dreams, they will accept it because they think, "I have been sent here to get money and to send money back; therefore I will do this." They will never give evidence that they have been forced. It seems to me that clause 1 is inappropriate.

Clause 2 has two or three main problems, in my view. It covers transportation but it does not actually cover what happens to a child here at the end of the extensive trafficking, harbouring and reception. For many children that I represent, that is when they realise they are trafficked, and that is when they come into contact with adults they could probably give evidence about. They may not have realised that the people who initially sent them from Nigeria or Vietnam were traffickers, but they will know the people here, because they will be exploited by them. Therefore, the fact that clause 2 does not include that part of the trafficking chain is a real problem for children.

What needs to be understood is that the traffickers may not be sophisticated and children do escape. I have a number of clients who were trafficked here. I will give you one example. There is a Bangladeshi boy who was clearly trafficked here in a rather amateur way by his great-aunt. He escaped but then he was exploited in a whole series of restaurants. From his perspective, he was on his own in the country and some nice person offered him a bit of pin money and somewhere to stay, but he was seriously exploited. He was not at that point trafficked, so there is nothing in this legislation that would protect him. I think it would be quite easy to draft a clause. All it has to say is, "It is an offence if a child has been exploited for the following reasons, or any other purpose," and then to introduce a second thing to say that it is an offence even though the child is not forced or deceived into it.

**Q1093 Baroness Doocey:** Given that a child cannot consent to their own exploitation, how does that affect the investigation and prosecution of offences against children, particularly very young children or babies?

**Chief Inspector Carswell:** In my experience, I do not think it is as important with regard to younger children because it is easier to prove that they know no better. They obviously cannot consent because they are so young. The difficulty we have had is with older children. You become an adult when you are 18; it is not 14, 16 or 17, yet they are the ages where we struggle at times to get it accepted that they are

still children, they are still being exploited, and that all the care and attention that should be put to it is put to it. Sometimes that is a struggle. I do not think that the age of the child is necessarily a problem in the way you said.

**Q1094 Baroness Doocey:** How should these differences be reflected in the final Bill? Do you have any views about whether something needs to be added or changed in any way?

**Chief Inspector Carswell:** There are two main factors for me. As I say, I do not think the age is a particular issue. The two main factors that affect the child, irrespective of the age, is the understanding that it does not matter if they have been threatened or not, and probably the more important one is the fact that we seem to be punishing the movement and not the exploitation. I have had some personal experience of challenges where we have proved the movement and therefore we have had a conviction, but I have had experiences where we have been unable to prove the movement of the child and we are left in limbo saying "What now?" because we have no offence of trafficking. It is neglect, but trying to prove neglect is a little bit more challenging as well. We are then left in the very unsavoury position of what to do. The child does not have all the rights, benefits and protections that it would have if it was seen to be a trafficked child.

**Q1095 Baroness Doocey:** Is there anything that has not been covered, Nadine?

**Nadine Finch:** There are a couple of things in terms of evidence. Obviously, if a child does not have to prove various things, their own evidence becomes less useful and the prosecution will have to build a case in a way that frontloads. They will need more investigation, experts and expert reports.

I will come back to this, but I also think that a legal guardian would assist. Obviously in a family court, when you have a child who is incapable of giving evidence, the guardian is acting for the child and is supposed to investigate the child's circumstances. If there was a legal guardian for a child in a criminal court, they could explain to the court the indicators and background that makes them think, as an experienced guardian, that this child has been trafficked.

**Q1096 The Lord Bishop of Derby:** I want to deal with children and the area of non-prosecution. Do you think the current provision for non-prosecution sufficiently protects trafficked and exploited children?

**Nadine Finch:** I acted in the case of *Re L* and others, which was a case about four people, three of whom were children, found in cannabis farms. That is a very powerful decision by the Criminal Court of Appeal,

but it does not seem to have stopped prosecutions of children. There are still loads of children being prosecuted for being involved in cannabis cultivation. The problem is that, unless something is very clearly on the face of the Bill, you cannot expect individual police or CPS officers to necessarily know all the case law.

The Court of Appeal came to a very clear decision and said that, if a victim was a child, all you had to show was that the offence was integral to or consequent upon the fact that they were victims of trafficking and exploitation. That is a very clear description, and it came after quite a lot of legal argument. If that was put in the actual Bill, it would give the CPS and others a guide. Of course, we have prosecutorial discretion, so you would have to add to the section that it is an abuse of process to prosecute in those circumstances.

**Q1097 The Lord Bishop of Derby:** Do any international frameworks or laws require us to make separate provision for children in terms of non-prosecution?

**Nadine Finch:** The difficulty is that in article 8 of the EU directive they rather fudge the issue because they use the word “compel,” but of course a child does not have to show that they are compelled to show that they are a victim of trafficking. If you use the same terminology as the EU directive, you are actually imposing a higher burden of proof upon a child who has been trafficked and convicted wrongly of a criminal offence than you are on other children who have been trafficked. That was part of the discussion in *Re L* and that is why they came up with a new formulation.

**Q1098 The Lord Bishop of Derby:** How would a non-prosecution clause be understood and interpreted by police officers? How easy would it be to handle or use?

**Chief Inspector Carswell:** There is a danger that it would be interpreted as a non-investigation clause as opposed to a non-prosecution clause, and there needs to be a clear distinction between the two. It is a sad fact, but a fact none the less, that children do commit crime; all elements of society commit crime, children as well. We encounter trafficked children in a variety of circumstances that echo the circumstances of children who are not trafficked but commit the same crimes. Quite often the realisation, the uncovering of the evidence and the fact that this is a trafficking case will come some way down the line, when you are into the investigation itself. We have to be careful that we do not hamstring the police in believing that they can no longer investigate, which may involve that child being arrested and processes being undertaken. Most cases for prosecution now go in front

of the CPS before police can charge. If this clause is introduced, my view is that the appropriate place would be at that level as opposed to the beginning of the investigation before we have all the facts.

**Q1099 Lord McColl of Dulwich:** I want to turn to guardianship. From your experience of working with trafficked children, what practical difference would a legal guardian make to the experience of a trafficked child?

**Nadine Finch:** In my experience, it would make a very important difference for a number of different reasons. The first one is that there would be effective co-ordination. To give a good example from some of the children in *Re L* and others, they had come into contact with an awful lot of different people and professionals but there had been no co-ordination at all. One of the boys was thought to be a child by the Home Office but an adult by social services. He was thought to be trafficked by some organisations but not others, because there was no one person pulling all the information together. Co-ordination is very important.

I also think that guardians should be seen in terms of a wide understanding of child protection systems. In the European Union they are thinking about child protection not just being social services but other people being brought together. Again the guardian would play a very crucial role in making sure that all the other services also saw their role as child protection.

The research emphasises that children really need to have somebody they think will stand up for them. They come into contact with an awful lot of different experts and professionals. They do not really object to that; what they object to is not having a person who is their person, who can explain to them what the role is of all those other adults. They are going to see doctors, lawyers and judges, but they need somebody who will try and unravel what is happening to them, as a parent would. Those are three of the main reasons.

**Q1100 Lord McColl of Dulwich:** Do you believe that a guardian should have a statutory role, and why?

**Nadine Finch:** I do believe that. For instance, section 11 of the Children Act 2002 places statutory duties to safeguard and protect the bulk of children, but it is placing a duty on other statutory bodies. If you are expecting a guardian to act with those other bodies, they need to have that same duty. I also do not think that other professionals would in the end prioritise the view of the guardian unless they had a statutory role. They might discuss things with them and negotiate, but unless there was a statutory role, which was a best interests of the



child role, the guardian would ultimately probably lose out if there was a conflict of interest.

**Q1101 Lord McColl of Dulwich:** Should the guardian have parental responsibility for the child?

**Nadine Finch:** I think that is confusing. If you look at what parental responsibility means in the Children Act, it is much narrower than what we are suggesting a legal guardian should do. We are not suggesting that legal guardians should have the child to stay or be with the child all the time. That can be done quite adequately by social services or a foster carer. In some ways a day-to-day parental role is not that of a legal guardian; theirs is a much wider legal role to negotiate and liaise. I know that some NGOs use the terms interchangeably, but I think that is probably legally incorrect. Parental responsibility is not as wide as legal guardianship because parents do not have the legal powers to go into a criminal court and talk on behalf of a child.

**Q1102 Lord McColl of Dulwich:** When should the child become eligible for a guardian?

**Nadine Finch:** As soon as they are identified. Of course, that is the million dollar question. There would have to be an initial obligation for any professional who comes into contact with the child to then refer on to a guardianship service. What happens in Nidos in Holland is a very good example. As soon as the child arrives, they automatically get referred to Nidos, who then decides what they need to do with that child, but there is an automatic referral. Because we have a common law system it is more difficult. In lots of other countries in Europe it is done by a court. We do not have that here, so for the moment you would have to have a cluster of professionals triggering the referral.

**Q1103 Chairman:** Colin, I was rather assuming you were not going to add very much to this. Is that fair?

**Chief Inspector Carswell:** Yes. It is an area on which I will certainly bow to Nadine's experience and best judgment. I have experienced guardianship with care proceedings for children I have encountered in the Family Court. From the police perspective, providing it does not impact on the investigation or ability to investigate, we would be very happy to work with whatever is put in place.

**Q1104 Sir Andrew Stunell:** I would like to follow that up. Nadine, you made the point that there are several different existing social care mechanisms at work in this field. How do we avoid conflict between



the roles that they carry out in different cases and the establishment of a legal guardian?

**Nadine Finch:** Their role is different. It is a co-ordinating role and no one is playing that role. We have local safeguarding boards where people come together and make joint decisions, but they do not make joint decisions about an individual child. It is usually more policy based. Although the Government have said that social workers play this role, that is not my experience. In fact, I have had a lot of children arrive at court proceedings with a taxi driver. They do not even come to court.

Social workers are, first, overloaded and, secondly, not trained in things like trafficking or immigration. You need someone who is a social worker-plus, so that they have the necessary knowledge about trafficking, about the child's possible home country and what they need to do about immigration status. They need a whole range of things that most social workers will not have come across. We can talk about training up social workers, but most social workers will not come in touch with these kinds of children very often. Therefore, they are not going to keep up to date and training is not going to be necessary for them. We are talking about specialist people. There is not that huge a number of unaccompanied minors or trafficked children any more. Therefore, it would not be a huge service, but it would be a specialist service which would be able to meet the children's needs.

**Chief Inspector Carswell:** I completely agree with what Nadine is saying there from my experience of investigating cases throughout the UK. It is quite challenging when you are having the same conversations to get through the same hurdles with social services from different parts of the country. It is understandable; as Nadine says, there is not the experience, because there is not the volume of cases. It is not the core business that they are dealing with. I believe that a small body of professionals, where this is their core work, would be beneficial in these circumstances.

**Q1105 Sir Andrew Stunell:** We also have in play the phrase "independent reviewing officer." Do you think that that negates the need for a guardian?

**Nadine Finch:** I do not know if you are aware of what an independent reviewing officer does; they chair a meeting which reviews a child's care plan, whether they are in care or accommodated, but those do not happen that often. Some independent reviewing officers see the child just prior to the hearing. That is the only contact they have with the child, and the only role they have is very much tied in with reviewing the operation. They certainly would not be able to liaise with the criminal courts or with the immigration services. That just is not in their role. In terms of independence, independent reviewing officers have

been lobbying for some time to be taken out of children's services and put into another more discrete area, because they do not believe that the independent part of their role is accurate. They feel that they are not able necessarily to challenge what happens in children's services because they are embedded in it.

**Q1106 Sir Andrew Stunell:** So you would see it as being necessary to specify in quite a lot of detail what the role of the legal guardian would be, to have the powers that you are talking about and not to be treading on people's toes all round the system.

**Nadine Finch:** If it was specified, it would be much easier for other professionals. Lord McColl's amendment to the Children and Families Bill did specify in some detail. His amendment was very close to guidance that is about to come out from the Fundamental Rights Agency in Europe in relation to the guardianship of trafficked children. In very many ways that is similar to the amendment Lord McColl put in, in terms of the reach of the responsibilities of a guardian.

**Chairman:** We will move you to Scotland now because Michael has a question.

**Q1107 Michael Connarty:** Not physically, I have to say, but certainly in focus. I do not know if you know anything about the Scottish guardianship system, which is running as a pilot. It has now been going for two years in Glasgow, in the west of Scotland. It is not underpinned by statute; it is a protocol agreed by the state agencies involved. We heard evidence that it does seem to be working. Do you think that approach could be effectively adapted to the rest of the UK, or do you think it is important to have statute, and independence from what they call the state agencies?

**Nadine Finch:** I have read the reports and the evaluations of that process, and I have talked to some of the people involved. It has worked, but in very limited circumstances. It has worked in a place where people already work together. There is a limited number of lawyers who work with unaccompanied children in Glasgow and nearby, and there is a limited number of social workers, so they already had a basis. Also, they only have something like 25 unaccompanied minors in one year. We are talking about having thousands. I think a voluntary system that depended on whether or not a social worker in your borough happens to liaise with you is naive. Unless over-busy social workers have a statutory duty to liaise with a guardian, I do not think they necessarily would. It would just be another thing on their list that they were not able to get to, so I think it is very important.

It is also important for accountability. Countries in Europe which have guardianship have said that occasionally they get rogue guardians in voluntary systems, and that statutory underpinning is very important to make sure that guardians have training, and also supervision and accountability. You are otherwise taking risks with the children because you are assuming that a non-statutory system is necessarily going to protect children if you have a guardian who is not acting in the way they should.

**Q1108 Michael Connarty:** I have a supplementary question. We had evidence from a number of people who said that, unless you embed a child-centred focus in social services, you can have as many guardianships as you like; it has to be embedded in the practice of social work departments, which is not evident at the moment.

**Nadine Finch:** I think I would argue against that. Social services are only one of the many professions that these children come into contact with. They come into contact with the police, the CPS and lawyers. They could have been in up to five different courts.

**Q1109 Michael Connarty:** I am not saying put the guardian into social services, but change the practice and approach of the social services. We heard criticism that at the moment we would be reliant upon the quality, training and focus of each social service throughout the country.

**Chairman:** I have to say, Michael, that is years away.

**Michael Connarty:** I am sure it is, but that is what we heard. Unless we get that, we do not change the practice.

**Chairman:** This is moving into Joan's question.

**Q1110 Baroness Hanham:** In a way you have dealt with quite a lot of this. If the children, once they were identified as being trafficked, were immediately taken into care under a section 31 order, would that obviate the necessity for having a legal guardian—I see you shaking your head and I think I agree with you—or are they two different roles?

**Nadine Finch:** They are two different roles. As someone who practises in the Family Court, I cannot see a Family Court judge making an order. Section 31 is very specific to children who are either out of the control of their parents or where their parents have done something to cause them serious harm. Therefore, section 31 does not have the power to make an order when you take the parents out of that. There will be a limited number of children taken into care, such as Roma children, because their parents are here and they are parties to that appeal; the local authority is saying to the parents, "We are taking the

children away.” But that is not the normal situation. Sometimes we do not know who the children’s parents are. They may be orphans. On a statutory basis section 31 will not work. Once a care order is made, the social worker’s role is a welfare role. What we are suggesting with a legal guardian is to step outside that—to rely upon the social worker to do the welfare work, but to step outside and liaise with all the other many agencies that a trafficked child has to deal with.

**Q1111 Baroness Hanham:** Colin, is there anything you want to add to that?

**Chief Inspector Carswell:** There is nothing of value that I can add to that.

**Q1112 Baroness Hanham:** Could I move now to the care of the victims, both adults and children. Do you think it is necessary to legislate for victim care?

**Chief Inspector Carswell:** I must say that the experiences that I have had to date have been very positive in working with social services, partner agencies and NGOs in relation to victim care. I accept completely that others may have had different experiences. We have managed to work very successfully with twin-track investigations—the police investigation running in parallel with the social services investigation—but that is wholly reliant on the professional understanding of both bodies working together. I can see how in some cases that may become derailed. How that would be legislated for in policy I am not too sure. I will pass that to Nadine.

**Q1113 Baroness Hanham:** Are you saying that, as you see it, it is better left to policy and practice rather than statute?

**Chief Inspector Carswell:** It depends what the statute is actually aiming to bring in. If others have presented evidence that there are failings, there may well be a need to bring in statute, but from what I have seen and my experiences I have not had those encounters.

**Q1114 Chairman:** We obviously have lots of ideas. What we are thinking of throwing around is that we might have some sort of very general clause saying something to the effect that “the Secretary of State would have the power to” or “must”— whichever way round it is—“provide appropriate victim care and support.” Some of that is already provided under their policy documents. The idea would be that it would be a general requirement on the Secretary of State to do not only what is done now but, one would hope, rather more.

**Nadine Finch:** As a lawyer, I think a statutory duty is very important. If a Secretary of State does not act as he or she should do on the statute, you have a much easier challenge in the courts. If it is a policy, and you take a judicial review because they have not acted in accordance with their policy, it is very woolly. All you usually get from the court is, "Go back, social services, and do better." A statutory clause would mean much better protection for children.

**Chairman:** I am afraid we are going to have to bring this to an end. We are extremely grateful to both of you for your evidence and for being a considerable amount of help to us. Thank you very much.

### **Examination of Witnesses**

*Witnesses:* **Andrew Webb**, President, The Association of Directors of Children's Services Ltd, and **Anthony Douglas**, Chief Executive, Cafcass, examined.

**Chairman:** I suppose I ought to declare formally that I have just given Anthony Douglas a kiss because he and I have worked together over many years, particularly when I was President of the Family Division, and he has been, for a number of years of course, running Cafcass. He is, basically, a friend of mine.

**Sir Andrew Stunell:** I am certainly not going to give him a kiss, but Andrew Webb is the director of social services in my home local authority, so we have a lot of transactions.

**Baroness Doocey:** Not kisses though.

**Q1115 Chairman:** That's a female characteristic, I suspect. Would you be kind enough, both of you, just to give us your name and position for the record?

**Anthony Douglas:** Anthony Douglas, chief executive of Cafcass.

**Andrew Webb:** Andrew Webb, president of the Association of Directors of Children's Services.

**Q1116 Chairman:** We have two real experts with us this afternoon and we are extremely grateful to you both for coming. You probably know that we have been knocking around the idea of having a specialist guardian for a comparatively small number of trafficked children, who would not necessarily be expected to come through Cafcass, I immediately say, because I can well believe that you, Anthony, would say that you are pretty stretched as you are at the moment. So could you look, when you answer, at the principle of it rather than that it might be an added burden for Cafcass?

**Anthony Douglas:** Absolutely.

**Q1117 Lord McColl of Dulwich:** From your experience of working with trafficked children, what practical difference would a legal guardian make to the experience of a trafficked child?

**Anthony Douglas:** What lawyers do, particularly in the early stages, is negotiate the obvious immigration and advice hurdles, and, if there are prosecutions, to support children who, in giving evidence, face extreme dilemmas. The relevance of the lawyers diminishes over time, and over time the most important services are those that can help children recover from trauma and to restore some degree of normal development.

**Q1118 Lord McColl of Dulwich:** What do you believe to be the key requirements of a legal guardianship and why, please?

**Anthony Douglas:** The guardians, as Baroness Butler-Sloss said, provide independent social work support analysis and arrange for legal representation when children meet a certain threshold of harm, but what has emerged from our experience is that the vast majority of children who are trafficked do start to receive local authority and other services, particularly health services, much more quickly than they did two to three years ago. The landscape has changed with some pretty good multi-agency working. The London Safeguarding Children Board has done a huge amount of work, as has Derbyshire and around the country now. The response at the local level is to understand more about children who have been through forced servitude, labour servitude and child sexual exploitation. Local systems are stronger as a result. I do believe that, particularly in an environment where the public sector will have to continue to make significant savings in future years, to think of legal guardianship in the voluntary sector or for the voluntary sector to have a

huge role is not as safe for these children as to become part of the mainstream statutory service.

**Andrew Webb:** To add to that, the point that was made about the Scottish system and the mainstreaming service is important here. If a child or young person has a level of need that requires them to be looked after by the state, they will be allocated a social worker, and, despite the evidence of the previous witness, the social worker's role is to co-ordinate and to act in loco parentis. Social workers have a very wide-ranging remit and they exercise that remit with increasing levels of sophistication, picking up experience from unaccompanied asylum seeking children and so on, and have made some really great steps forward in negotiating all the complexities of different Government agencies and so on. The need is to make sure that we push the system in the right direction rather than to add to the system.

**Q1119 Lord McColl of Dulwich:** So you are not in favour of guardianship.

**Andrew Webb:** At the moment I would like to see the Home Office trial report before committing myself, because it may be that the evidence says that the use of an additional person as an advocate for the child in negotiating the system will be of benefit, but it is early days yet. They are only just deciding where to go with that, but, at the moment, my starting point is that the system needs to be better rather than change the system. So I am not in favour of it, no.

**Q1120 Lord McColl of Dulwich:** What about the great loss—the 300 that go missing? Are you saying that is a thing of the past?

**Andrew Webb:** There were 300 in the last three years, and about half of the children long-term missing from care have been in this group. Because they go missing so early in their career in care, as it were, there is no evidence or reason to assume that the addition of another person to try and form a relationship with them to overcome their concerns about their family elsewhere—the threats that are being held over them—would make a difference.



**Q1121 Lord McColl of Dulwich:** Even though the guardianship was appointed right away.

**Andrew Webb:** They have somebody working for them right away but still go, because the pull factor of fear of retribution for family, or whatever it might be, is so strong.

**Q1122 Chairman:** I wonder if I could just ask you a little about this. Leaving aside the children who go missing almost immediately, assuming a child is identified as trafficked and is then placed with the local authority, that child will be traumatised almost certainly; they will have a wide variety of needs and will have to cope with immigration; they will have to cope with the national health service; they may require CAMHS; they may require some therapy; they may require getting into education and so on. Are you actually saying, Mr Webb, that the social worker would be able to accompany the child to all the various interviews and look after the child in relation to the NHS and so on?

**Andrew Webb:** No. The social worker's job is to draw up a comprehensive health care and education plan, which would, after full assessment, cover all those areas you have just highlighted. Their job would then be to arrange for them to be delivered, and some of those simply are in very short supply. The specialist work from CAMHS, for example, might not be available for some time, but the social worker's job is to make sure that there is a comprehensive plan and that that is delivered. Some of their duty will be to accompany the young person through that journey; some of it will be to ensure that the day-to-day parent, foster carer or whoever is looking after the child, where they are the more appropriate person, helps them to access those services. I suppose I have not seen anything in the proposition about the guardian that suggested one person would accompany a trafficked child through all those elements.

**Q1123 Chairman:** I think one of the things that will be suggested is that they will perhaps act as a link between the child and finding a lawyer, for instance, for not to be returned summarily to their country of origin and so on. The idea is that it would be someone who would be a continual link—not continuous but continual—throughout the time that the child needs the help until the child is sorted. I just wonder whether you are really suggesting a social worker is going to do that.

**Andrew Webb:** I am suggesting that the care plan of the child needs to cover all those elements.

**Q1124 Chairman:** He won't have a care plan. The child is not in voluntary care; the child is accommodated under section 20. Do you actually have a care plan for a trafficked child?

**Andrew Webb:** An accommodated child requires a care plan, yes.

**Chairman:** It must depend on which local authority, I have to say.

**Q1125 Lord McColl of Dulwich:** Anthony, do you believe in the idea of a guardianship?

**Anthony Douglas:** If there were to be a scheme, and if we were to be asked to do it, as any other organisation, we would support these children, many of whom we are supporting already. The point I was making is that they are increasingly coming into the care system, because at the point of identification and need they have met the threshold for significant harm. I wasn't seeing that two to three years ago. That is a matter of better identification. The national referral mechanism has helped the awareness of it; some of the toolkits for multi-agency working and safeguarding boards are excellent examples. Where a child is first appearing, professionals are getting more sensitised to it. What strikes me in looking at a number of the assessments and care plans for these children is that they do need quite early on, as the Chairman said, very skilled psychological and educational help. It is the access to those resources for a child that is more important than having a specialist advocate geared particularly to the prosecution. I am not denying the importance of disrupting trafficking markets and prosecuting offenders, and I think the Bill on that is superb; but I do think the needs of children are quite quickly different. We see it, if you like, in more better understood forms of abuse like sexual abuse. There are dilemmas about a child's involvement in the criminal controlled assessment, but what is obvious is the child's need to be made secure quite quickly.

Many of these children can't tell you the truth—older children—until they feel secure. They may have to be in foster care for some months before you get the story that is perhaps the coached story or the story that you have to tell out of fear before you feel secure enough to tell the real story. An advocate is excellent, but most of the children I see are not able to make initial use of advocacy. They need care and, as Elizabeth said, CAMHS. Some of the services you are only really going to get if you achieve sufficient eligibility in the local multi-agency system, and it's a

fight. This is one group of vulnerable children. There are many groups that we are more aware of now than 10 or 20 years ago.

**Q1126 Chairman:** I am sorry to come in again. I had not appreciated, I must say, that Cafcass is dealing with some of the trafficked children. So there are actual applications for care proceedings under section 31 going ahead, are there?

**Anthony Douglas:** An increasing number, particularly where child exploitation rings have been disrupted—the assessment of the children and the impact of what has happened to them, particularly those subject to internal movement around a city from one gang to another.

**Q1127 Chairman:** From overseas as well as internal.

**Anthony Douglas:** Yes. We are having, for example, many discussions with the central authorities in eastern European countries, because what should subsequently happen to children from countries like Slovakia and Lithuania is a matter of great contention. Should those children, if they are found to be in need of permanent care, remain in the care system here, or, as many central authorities would argue, back in their country of origin? Of course, for many, they have never lived in their country of origin. It is a difficult dilemma, but, yes, we are seeing an increasing number of trafficked children in the care system.

**Chairman:** Joan, I'm sorry; I partly went across your question.

**Q1128 Baroness Hanham:** That's all right. You can probably be very brief on this because you have probably answered the point. Say we were looking at the guardian system: do you think the existing roles within the social care system would come into conflict with a legal guardian? As I say, we have really touched on this. That is the first one. If every child who was found under trafficking was taken into care under section 31, does that then obviate the need for a legal guardian? Really, what you have said, Mr Douglas, is a different thing, but there we are.

**Anthony Douglas:** On the first point, it would set up something of a parallel system, but I agree with the point about the urgent need in the first few weeks for specialist advocacy. Can you just remind me about the second point?

**Q1129 Baroness Hanham:** The second point is whether it comes into conflict with section 31.

**Anthony Douglas:** Only in that not every child meets the threshold. All I was saying was that an increasing number of children do. Of those children who do not, some are accommodated, as Andrew said, because there is no parent, or the person who the child thought was the parent is not. Then there is another group who drift again, who are re-trafficked. That is the particularly worrying group at the moment. There are more children identified for the care system, some coming through section 20, with local authorities being more responsible when there is not a parent. I don't know if you saw a programme about the "golden hour" for paramedical help the other night, which was that, unless you do certain things in the first hour after a major accident, your chances of survival are very difficult. It is the same for many of these children. If the emergency services—the local authority, the police and so on—don't hold on to them, they have gone again and there is a risk of re-trafficking. It is a different emergency response: police, local authority, emergency services, and sometimes the health service. These children often don't get adequately protected at that point. I must say the police have been amazing in the cases we have looked at. It is a real object lesson in how to take a problem that was only recently identified seriously very quickly. I must say, in defence of local authorities, more are becoming aware of this, and their inspectorate and my inspectorate Ofsted is also focusing very heavily on child sexual exploitation.

**Q1130 Baroness Hanham:** This is not in my brief but I want to ask it anyway, very quickly. Which would be quicker in order to get the child appropriate representation—to go through a section 31 process, which I know is not very quick, or to immediately have access to a legal guardian?

**Anthony Douglas:** That is why the specialist advocate scheme is potentially very important because, if, working with the police, the trafficked child is secured, that allows the multi-agency system some time to gather information and to assess. You can only have a section 31 application if there is immediate need or you have done some background information, so the two might work well together.

**Andrew Webb:** The introduction of another person into the care proceedings terrain is potentially going to cause confusion to the young person, whether that is the person who first met them when they were identified as having been trafficked or someone who comes in later. It is already highly contested territory but necessary to secure a parent—the state—for children who appear to have none. That is one of the important benefits of that process. Section 20 can, of course, immediately provide for accommodation, support and for all those needs to be met. Given the performance of the care system and of some local authorities, and the variable quality of response that we have seen in the past, I can understand the advocacy role being pushed, but I would, as I said earlier, rather see an investment in quite quickly getting the mainstream care system adapted to pick up the needs of young people who have no parent or whose parents cannot be trusted to look after them, than to introduce a parallel system. If you look at the success of the care system with, for example, some groups of asylum-seeking children, the success has been phenomenal. That needs to be borne in mind.

**Q1131 Chairman:** Andrew, we are going to be writing a report in which we obviously express our views about pre-legislative scrutiny of the Bill. Side by side with that there will be a report on advice, really, to the Home Secretary, and, I suspect, advice to the Department for Education too, particularly in relation to children. Would you recommend that we said something in our report that perhaps increasing numbers of trafficked children should be seriously looked at by local authorities, to be taken into the care system through an interim care order? The really good local authorities are probably doing that, but are other local authorities?

**Andrew Webb:** What I can't work out is where these children end up and what legal status they have if the local authority does not do that.

**Q1132 Chairman:** They don't have a legal status of any sort at all. Nobody has parental responsibility for them; nobody has anything other than a section 20 accommodation. So I wondered what you would suggest should be put forward on this.

**Andrew Webb:** I would suggest that every child or young person that is below the age of 18 needs to have a parent and, if there is no parent, then a route in so that the care system, which gives some form of parental responsibility to the local authority, is entirely appropriate.

**Q1133 Chairman:** I must tell you I put in an amendment on the Children Bill on local authorities having parental responsibility of trafficked children if they were being asked to accommodate, and that was blown out as being absolutely ridiculous. So I am quite interested in what you say.

**Andrew Webb:** I suppose my advice here is that children should not be left in limbo, and the numbers are relatively small. If the local authorities are accommodating a child, then, to all intents and purposes, the real differences are only made by the complexity of the legal journey rather than the care, because on a day-to-day basis you cannot tell the difference between the care provided under section 20 and section 31.

**Q1134 Chairman:** But you think they shouldn't be in limbo.

**Andrew Webb:** Yes.

**Chair:** I'm sorry, Alastair; I have taken over from you.

**Q1135 Lord Bishop of Derby:** I think you have answered this question. I don't know whether you have got any more to add about the Home Office trials for personal advocates, whether you know much, or what your thoughts are about that whole enterprise, really.

**Andrew Webb:** I have seen the detail. It is a trial, so some young people will be allocated to it and some to the normal local authority response. I am aware of it at a local level in Greater Manchester because Manchester has agreed to trial it. I would like to see how much difference it made. It is not clear, over a six-month period, how much we can learn—that is my only concern—because the numbers are relatively small and, if we are going to make a decision very quickly at the end of the six-month trial period, we are going to have to learn fast as we go. On paper, it looks like it could be confusing and burdensome, but, on the other hand, it could prevent some young people from falling through the net—hence my opening comment really. I would like the evidence before I make my mind up.

**Q1136 Lord Bishop of Derby:** Sure, and it may not come in time for us, really.

**Andrew Webb:** No.

**Q1137 Michael Connarty:** I find this a really, really strange session. The point of the Government's responsibility is to implement the directive. The directive is based on the Palermo convention; it is also based on guardianship. It is quite clear; they should appoint guardians. That is the EU decision. We are talking about, "Don't bother. Let's just put them into a social work system." I have to say that is not my experience of social work, acting quickly and doing care plans for children in need in the short time scale that you have when you find a child unaccompanied. We have been told there are 1,000 unaccompanied children, and they reckon 500 of those are trafficked a year. So we have a larger number maybe than you think, but, also, we have a responsibility to try and design a Bill that does in fact obey the EU directive. It is about guardianship. Has anyone looked at the Scottish guardianship system, which is not based on statute? It is a protocol agreed between the state agencies, some of which I know very, very well. My wife used to be the executive director of education and social work in the City of Glasgow when it was operating, and it worked very well. They have told us that only two children have absconded from care out of 42 children they have under their guardianship, and yet we are told in England it is between 60% and 80% of children who are given placement orders disappear. It seems to me to be quite successful, but it is not based on statute. What do you think? Why does it work, and could it be transferable to England?

**Anthony Douglas:** Having spoken to a number of countries that have schemes, it is quite clear there are huge benefits to them. I wasn't particularly arguing against the concept of what the guardians do or the advocates do, but against creating a parallel system from the local multi-agency children system, because I think that system should respond within 24 hours to these children. As the Chairman said, it is incredibly patchy and that does not sound, in some parts of the country, realistic, but I do think it is the most sustainable way forward. An example I would give is that we have a number of advocates— independent visitors—in the system, whose ability to get things done is quite limited. I would worry that, while we might comply with the convention, we wouldn't be giving these children the guarantee of particularly therapy, care, education and so on. Now, the Scottish scheme, on a voluntary basis—



**Q1138 Michael Connarty:** Why not? They have children's rights. They are in the UN convention on the rights of the child. What you are saying is that local authorities wouldn't give them, but it is their duty to give them.

**Anthony Douglas:** As I understand it, your Committee is looking at what will work in the English context. To the best of my abilities, I am simply trying to give you the benefit of my experience about what I think would work best for these children in the longer term. My own organisation is involved with many of these children through care proceedings, and we routinely challenge and persuade local authorities to put in more services for them, through the statutory route. That is fine for those children, but, like you, I am worried about the group of children who don't meet those standards. Perhaps some elements of the Scottish scheme and the schemes we have seen in other countries in the voluntary sector might work, but I do worry that the legal guardianship concept is not the right one.

**Andrew Webb:** I agree with Anthony.

**Q1139 Michael Connarty:** This is important because I don't have a good view of this idea that you put them into a social work system that seems to lose 60% to 80% of the children at the moment through the foster care system. I would like to hear arguments. Is the directive wrong? This is what you are trying to say. The directive is wrong because it is an issue of guardianship, because they don't obviously think statutory access is accessible by trying to enter an already muddled and confused asylum-based system of social work. Let's be honest about it. You need someone to make sure all the silos supply their goods.

**Andrew Webb:** Yes. That is the role of a social worker. The fact, I suppose, remains that all those services are not available for the entire population. At a general level they are rationed services; there are waiting lists and skill deficiencies and so on in all these areas. That is not to defend the fact, but it is a reflection of reality. The point I was making was that, if the local authority takes seriously its responsibility as the parent, then it will make sure all those things are applied for even if they are not delivered and commissioned at some point. I don't see the social work role in relation to children in the care system being a silo because it is the role which puts the child at the centre of the work and arranges everything around it. The fact that it doesn't always work well doesn't mean that it needs to be replaced; that is my point. There are specialist areas where, in the early days, it might well be possible to secure more

young people who do run, but one of the big problems is that before anybody has had a chance to form a relationship with a child—Anthony gave you some examples of why that is so important—other things force them to leave. If you haven't got a child you can't work with that child, and the issue of how you secure a child who wants to be somewhere else becomes very problematic.

**Q1140 Michael Connarty:** They have to trust the person who is the guardian. That is why guardianship is suggested.

**Andrew Webb:** Indeed.

**Chairman:** I am sorry to interrupt. We are just coming to 4 o'clock. I need to ask the members of the Committee whether you could stay another 10 or 15 minutes to keep a quorum. Although you have to go, we do still have a quorum. That is what I am concerned about.

**Q1141 Sir Andrew Stunell:** If I could just turn to the vexed issue of who pays for it, as I understand it, at the moment the Home Office does give a grant for asylum-seeking children, but there is no extra money if they are trafficked. We have had the figures that there might be as many as 1,000 unaccompanied children each year; 500 of them, it has been suggested, might be trafficked. Do you think that the money that is available is sufficient to cover their needs, and what would you say it does cover by way of extra expenditure compared with a child from the host community?

**Andrew Webb:** The Home Office grant, as I understand it, reduces at 16 and ceases at 18. There are all sorts of issues about how old some of the children we are talking about really are that perhaps we will touch on. The grant has never been enough to cover the complex needs of the asylum-seeking children for whom it was originally provided, because the presumption is that if they were in care anyway they would already need to incur costs. But the local authority argument is that they would not have been there in the first place, so there has always been a perceived gap. There is a presumption that, over time, local authorities will absorb this sort of work into their normal planning and so on, but the reality is that some authorities have much higher numbers than others and the costs per young person are high. It does seem the perfect area for a special grant of some sort related to the numbers you have, and one which could be used, as perhaps adoption support is, over time to try and find a mechanism that could, in a sense, bank the resource, because

some of the needs of a young person might start emerging in their early adulthood and they will not be able to access help earlier. So there are a whole range of issues to do with the specialist support needed that argue, for me, for a specific grant to cover them.

**Q1142 Sir Andrew Stunell:** Would you say there are extra costs for a local authority in dealing with the needs of a child who has been trafficked as opposed to a child who is not trafficked?

**Andrew Webb:** The potential trauma that they have suffered makes me say yes, but then, again, if you arrive unaccompanied without having been trafficked in this country from another part of the world, it is probably fairly traumatic. I would say that the chances are that they would have additional needs. The bigger concern I have is actually assessing those needs and finding specialist support for them, because the abuse that accompanies trafficking is so varied. The impacts of sex exploitation and economic exploitation are quite different and therefore a quite different service is needed.

**Q1143 Chairman:** Children who are trafficked—young people who reach the age of 18—I assume are entitled, as other young people are, to remain in foster care up to 21, under recent legislation. The fact that they are trafficked wouldn't take them out of that, would it? If so, the funding would have to deal with extra specialist care, would it not, or may do?

**Andrew Webb:** I suppose that would depend on their legal status. Once you are subject to section 31, then it makes no difference how you got there. At that point you are absolutely right. I do not know how that would apply to young people whose status is less clear, to which you were referring; I am sorry.

**Q1144 Chairman:** Then, of course, the recent legislation wouldn't apply to those who are accommodated. Presumably, you have young people who continue to be accommodated until they are 18.

**Andrew Webb:** They do.

**Anthony Douglas:** Yes. If I may, this is an extremely important issue. We don't know the age of many children, but certainly we know that their needs extend into their 20s, as do many children in need and

children in care. So the importance of guidance to local authorities, health authorities and providers about the needs of these children is crucial.

Chairman, you mentioned the Department for Education, but I do think there is a role for the Departments of Health and Communities and Local Government to think about policy and practice guidance, guidance for health professionals, guidance for teachers and so on, to build up a momentum, perhaps with some more research about longer-term outcomes. At the moment we don't really know how long trafficked children will not go on needing support for. We know they are traumatised, but we know very little about the impact five or 10 years on, inevitably. It would be right to look at some research, but some of the models in adoption, such as the pupil premium for adoption support, which I know you have been campaigning—

**Chairman:** You gave evidence to it.

**Anthony Douglas:**—hard for, might well benefit many of these children over time.

**Q1145 Sir John Randall:** Mr Webb, one of the things we are talking about is that we are not necessarily sure on the numbers. Is there a system that you can monitor and report on the number of trafficked children being accommodated by each local authority?

**Andrew Webb:** No. We have a very large and complicated information set that we are required to keep. It can tell you an awful lot of things about all the children in the care system—how often they have had their medicals, right the way through to their legal status and so on—but it does have not a subcategory for having been trafficked. We can identify those who came in seeking asylum but not those who have been trafficked. The simple answer is that there is not a national system which collects this data that we could simply interrogate. At a local level, those authorities that have a more sizeable problem will be able to tell you with great accuracy about the numbers of children who have entered their care system in this way, but in other places they will simply be absorbed as just another category of child in care.

**Q1146 Sir John Randall:** Presumably, if they have a perception that they do not have a problem, they will not necessarily be looking for them as trafficked.

**Andrew Webb:** That is true, yes.

**Anthony Douglas:** Although I would say, if I may, that a local authority like Gloucestershire now has a pretty sophisticated missing children tracking system. We talked about children missing from care. It is a huge problem. Some local systems do know and they have done a lot of work on weekly tracking of where children are and putting in huge efforts, through the police, to recover children. At a national level, this is another reference in relation to data collection that would help us build long-term policy.

**Q1147 Sir John Randall:** From what Mr Webb is saying, it wouldn't necessarily be impossible, if you have this large system, to put another little box in there.

**Andrew Webb:** No. We would have to go through the Department for Education's Star Chamber to make sure we weren't creating an additional burden for anybody, so it is a complicated business.

**Q1148 Sir John Randall:** I understand it is not always easy to put in simple things, but it would not be terribly difficult.

**Andrew Webb:** No.

**Q1149 Chairman:** Peter Bone MP put in a request to all local authorities, under the Freedom of Information Act, for how many trafficked children there were in their area. About a dozen local authorities were able to answer, if that. It does seem to me that directors of social services might consider themselves whether they shouldn't be keeping some sort of record. Would you like to take that away to your directors?

**Andrew Webb:** I can take that away, yes, but I am surprised it was such a small number that responded to the Freedom of Information Act request.

**Q1150 Chairman:** I saw the responses. It may have been 12; I am told it was less than 12.

My other question is the last one because we are really running out of time. I am very grateful to you for staying on. If there are local authorities who have children who come within the section 31 threshold criteria, it would be, it seems to me, desirable that local authorities should go down that route, because they could prove it, and there is unlikely to be any opposition, because there won't be anybody coming in who can say, "We are the parents and we want to take the child or children trafficked from overseas." If that happened, Anthony's Cafcass would automatically take over as guardians in almost all the cases. Your suggestion a little bit earlier that to use section 31 might perhaps produce an extra tier really doesn't apply, because once you have a section 31 you would almost certainly get a guardian under the provisions of the Children Act.

**Andrew Webb:** That is absolutely right, Chairman.

**Q1151 Chairman:** I just thought we ought to clarify that.

**Andrew Webb:** What I did not want was—

**Chairman:** I just thought we ought to make this clear.

**Q1152 Baroness Hanham:** It is a long time since I sat in the family court, but my recollection is that it was not always very easy to get a guardian within a reasonable length of time; sometimes these things are delayed because a guardian is not available simply because you have got an awful lot to do. If you bundle—

**Anthony Douglas:** I should, just for the record, if I may—

**Baroness Hanham:** You can change my perception.

**Anthony Douglas:** Since 2011, we now allocate in every single section 31 case a guardian to every case within half a day. We are learning more about these cases all the time, and, as the Chairman said, none of them have been turned back because, on proof and evidence, all of them have demonstrably suffered significant harm.

**Chairman:** I am just more and more thinking that section 31 is a real way forward if local authorities are prepared to do it.

**Q1153 Michael Connarty:** How many children would a guardian be responsible for? In Scotland it is 25 per guardian; they have 25 children that they have to work with.

**Anthony Douglas:** Yes; our average caseload is similar.

**Chairman:** Thank you both very much indeed. It was very instructive and very, very helpful.