

Annex D: Oral Evidence Sessions, Friday 9 December 2011

**List of Interviewees
Friday 9 December 2011**

Professor Carl Parsons, Department of Psychology and Counselling, University of Greenwich

Susan Morris King, National Adviser for Behaviour & Attendance, Ofsted

Dr Jane Martin, Acting Chair, Local Government Ombudsmen

Julian Lee, Head of alternative provision and PRUs at Waltham Forest, Association of Directors of Childrens Services

Dr Daniel Moynihan, Chief Executive Officer, The Harris Federation

Gerry Walters, Director of Education, E-Act

Lesley Smith, Communications Director, ARK Schools

David Gould, Principal. St Albans Academy (Ark Schools)

Devon Hanson, Principal Walworth Academy, Southwark (ARK Schools)

The Rt Revd Peter Hullah - Group Executive Director Ethos and Values United Church Schools Trust and United Learning Trust

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OFFICE OF THE CHILDREN'S COMMISSIONER
SCHOOL EXCLUSION INQUIRY

At

Meeting Room 8
33 Greycoat Street
SW1P 2QF

On

9th December 2011

Present

Dr Maggie Atkinson – Children's Commissioner
Mr Robin Richardson – Education Consultant
Mrs Janet Mokades – Schools Adjudicator
Mr John Connolly – Policy Director

Interviewee

Professor Carl Parsons

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MAGGIE ATKINSON: Have a seat. If you want tea or coffee, we've got a flask over there and we'll start when you're settled and comfortable. Do help yourself to chocolate biscuits because otherwise we'll eat them all.

PROF CARL PARSONS: I could start while I'm here I suppose, really.

MAGGIE ATKINSON: It is brilliant that you could come, thank you very much. I've just introduced myself. If I can ask that the Panel members who are here to introduce themselves.

ROBIN RICHARDSON: Robin Richardson, I am an educational consultant, particular interest in equalities in education.

JANET MOKADES: Janet Mokades, schools adjudicator, former HMI for many years.

JOHN CONNOLLY: I'm John Connolly. I'm the principal policy adviser on education here, at the Office of the Children's Commissioner.

MAGGIE ATKINSON: The person who welcomed you in was Delyth, who is the research assistant and doing the secretariat for the enquiry. Sitting at the back of the room is Sandeep, who is one of my communications staff and very strongly supportive of the inquiry and will eventually support publication and Rhodri is our verbatim transcriber because these sessions ... we've done a great deal of work out of the field. We've gone out and interviewed children and the families and parents, and the schools and those sessions are unattributable, although we may use quite extensive quotes from what we've seen and we may write case studies.

These sessions which begin today, and you're our first witness, so you shouldn't feel in any way a guinea pig, but this is us feeling our way. These sessions are on the record. Unless you actually say in the middle of what you're talking to us about, 'This has to be off the record and unattributable', if we quote you, it will be on the record unattributed. What we will make sure we do is to send you an unedited transcript for your factual

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checking and if there are things that you said which seem to you to not be what you meant that have been expressed in a way that meant something different, then we will add a footnote in or work with you to amend the text.

We're aiming for publication of a report understand the Foundations to Government by the third week in March 2012. It will be launched in Parliament. We're working with the Parliamentarian now to get... basically it will be Portcullis to do that and it will, like all of our reports, be full of the voices, views, reflections of children and people as well as those who work with them.

It's very important that we hear from as many people in the sector as possible, so over today and Monday, we're be talking to people like yourself, other academics, lawyers, people who run schools, Ofsted, the local government Ombudsman and a range of others, and the process between here and the new year will be that we will empty our heads of everything we've seen across the country in these sessions, in the written responses that we've had to the consultations and we'll work out whether there are gaps in what we're finding out and what's come forward and we'll attempt in the new year to gap fill, so that when we report in March, it's as solid and evidence-based as it can be, so that's our process.

I know that you've had the kind of questions that we'd want to explore with you in advance of today and rather than playing head tennis, where we ask a question and you give an answer or whatever, it would be great if you simply talk to us with those questions as a framework and with anything else that you feel we jolly well should have asked and we haven't, and the Panel will ask for clarification or whatever without necessarily coming through the Chair.

The only other thing to say is that Janet is the Chair of the Local Safeguarding Children Board, and there's a very serious case going on in the borough where she is that

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Chair and she has to leave her phone switched on in case something comes up, but we'll try to minimise disruption.

We're in your hands. We'll try to keep to time because we've got somebody else coming at 12, so we're in your hands.

PROF CARL PARSONS: Okay, what I've done is written out your questions and some ideas about what I want to say in response. May I say at the very outset that I've been involved with exclusion work since 1993. Things have improved year on year with preventative approaches to these young people, so I have felt increasingly, since engaging in this work, that school exclusions in the UK are morally, practically, financially and rationally bad. No other affluent country in Europe does it like this.

We should be designing our local provision of education to cater for all children, without allowing breaks in education that do still occur, less now than previously and there's a growing number of schools and local authorities where they make this very provision, such that all children are accommodated and their care and education needs are met and permanent exclusions are at zero, fixed period exclusions have all slowed down, but it is an interesting correlation between permanent and fixed term exclusion which is a positive one. It's not that you push down permanents and the fixed terms go up.

We know it is costly if harm early on leads to social and personal ills later, and intuitively, and according to the evidence, school exclusion feeds bad outcomes. We know it, but we still do it. How foolish?

Some research shows that a very large proportion of prisoners claim to have been excluded at some point in their school careers. I have a question mark over that because there are all sorts of ways of missing education, but that's not what your focus is on today.

I and colleagues have devised and backed the notion of 'community-based inclusion' which we think actually fits with the current coalition's plans for dealing with exclusions,

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but how on earth is it that we talk about savings, about avoidance of social harm later and we don't talk about enhancing the likelihood that these young people's lives will be happy and fulfilled later on. Our current exclusion policy still puts them on the other side of the fence as the chavs, as the people that we should be frightened of, the undeserving. That is not the way we should be looking at it.

Your first question was about the different thresholds for exclusions that might exist between schools and there are vastly different thresholds it seems. We do know that there are intake variations, but also some schools which have intakes every bit as challenging are more inclusive than some others and we know also that primary, secondary, special schools, be it for a boys', girls' schools, mixed schools, differ.

What delights me, makes me optimistic in this area, and there's a lot of room for pessimism, is that there are some things going well, and also you can find headteachers who are big excluders, but you think, 'You could be turned. You could be brought round.' In the research we did in five high excluding local authorities, there were some of these we were working with. One head, a hard businessmen, I'm thinking of here, had 14 permanent exclusions by Easter and we reckon that we could've got the right deal with them, this school and two others, taking over the PRU with the PRU money. He would have said, 'Okay, next year I'll permanently exclude none,' and he'd have done that, but it does involve finance and deals; that is a crucial point of what all this is for me.

Some say money's the problem. Some headteachers will accept that they need to allocate funding disproportionately and they will realise that some of their children, most of their children, almost all of them, 95% can be educated for £4,100 a shot. Others will cost them £6,000, some will cost £9,000, some with mental health difficulties and so on may cost £21,000. This is a cost I've heard in certain places.

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A friend who has had no exclusions in his secondary school in the last nine years is actually educating one of his children in the local library, it's one-to-one, a learning mentor doing it, and it's probably not full time, but it's the acceptance we have – all of these children are our responsibility and he feels that once they are taken on, they are his through to school leaving and he must do the best for them.

The reasons for the differences; there is a positive association between measures of deprivation, eg rates of free school meal entitlement and exclusions which is simply a point of some children need more or need something different or need greater care or need interventions either with themselves or with their families to a greater degree than others. The point that we were making in this book is that schools are also differentially funded. If they are taking in children with... from deprived circumstances, then they will be receiving additional money. There are certainly quite a number of schools that we've been into where, if you like, deprivation money does not seem to be spent on deprivation issues, and we have now also the £430 pupil premium, and so if you have a school with 1,000 pupils and 20%, which is slightly above the national average, on free school meals, that's an additional £86,000 going into the school. What are you going to do with it?

The differences though are accountable, I think in part by, if you like, differential personal commitment and heads and staff. But heads have to be pragmatic. They can't all just walk in and say 'no exclusions from here on', and there have been examples of heads who have in the end been forced out, because they have not taken staff along with them, but if they can get them to the position where collectively within that school, they will not exclude, added to which, they will make the necessary provision within classrooms, within bases and units, off-site provisions in some places, alternative provisions for key stage 4. If they do all that, and if the school is committed to it and the staff are willing to go along with it, it can be done.

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There is also differential local collective commitment across schools and it's a delight to find where the schools do sit down together and will work out, it's my turn to have one. Some have very systematic arrangements, like Portsmouth. They have an In Year Fair Access Panel, but don't call it that, but they RAG (Red, Amber, Green) the year groups in each of their secondary schools, so year 11 with a red beside it, you don't put one in there, and those at the meetings, which I think were monthly, actually vote. They vote and it's not just the headteachers; it's the special school provision which is a collective arrangement so that all of those who are on the edge of mainstream school go into that system and are allocated, it also includes parent representatives and they vote and they stick by the vote, and it holds together. So this is Portsmouth, which is a zero exclusion local authority.

It's the hope that we have that with the present white paper proposals which are being piloted from April that we will see more of this locally group clustering of schools where they do organise themselves, much as Cambridgeshire does, . They have the money. The schools have the responsibility. They can exclude. They must find a place, they've got to pay for it, and they'll still count on your roll for exams later. We think that that sort of local responsibility reinforced and intelligently implemented should mean that we can move beyond the still unpleasant and unfortunate and damaging arrangements that we have now. I will say something at the end about the legal structure, but the unfortunate thing is that it's about regulating the exclusions. It's about regulating an unsatisfactory policy possibility and we should be organising, legislating, making law for protection against the loss of education, not to make sure schools have excluded fairly and 'was this badly behaved pupil one that needed to be out of school, and therefore gets what he – it's usually a he – deserves?'. It is ... 'what's the provision we should be making?' How can we ensure that the local clusters or the local authority of the individual school that has the

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responsibility can be supported and can be made to fulfil its responsibilities towards the young people who are in this position.

You asked what influence, positive or negative, do interventions of other public services have and my answer to that is 'lots', but it can be rather chaotic. There's certainly lots of potential to add to a school's options through the use of charities, local initiatives, sometimes national charities which have local operations and even some private input. It is the coordination that's the challenge. We've had a problem for a long time, with joined-up services. Great, fine, let's join them up. It just doesn't happen and there's lots of good will. Good will is crap as a basis for organised systematic strategic response to social and educational difficulties, and the line that I have taken in the last few years is to argue that the best coordinating point is actually the school or the school cluster, providing that cluster is not just a group of schools saying, 'Yes, we're together,' but they had no joint organisational set up. It has to have some organisational place which administers that unit, but headteachers, for instance, who do the coordinating, might say we need social work. We'll have a social worker in on Thursday. We'll see if we can get them to pay for half and we'll pay a bit. We need youth work in, we can pitch in a bit for that. We need extra of this. We like this drama group that does something, but we only want them on a Friday, so that it fits within the pupil's timetable right, fine. A poor solution is the alternative provision where they say we'll buy one day, a Tuesday and as year 10 goes out on a Tuesday to a youth centre, misses heavens knows what parts of the curriculum but no one's too bothered. It needs to be stitched in with what the school does and one very good example I know of in London, the young people are at a youth centre on a Monday, Wednesday and Friday. On a Tuesday, it's based at the school and the school on a Thursday. It's their options in the school and it's arranged like that. In the first few cycles the youth centre were really quite resistant to the, 'Will you take this other

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child for Wednesdays?’ It has to be set up in a simple way that it will hopefully serve the best interests of the child, as well as allowing the school to carry on functioning, but that’s all a partnership.

The other part of it is policy change. Again, there are some good examples where there is a small number of alternative provision, voluntary providers and so on, and there is someone in the local authority who takes the responsibility for quality checking them and I’ve asked in places that I’ve been to as part of the research and for other reasons, you have an agreement, an SLA [Service Level Agreement] and in some places, it’s yes. You know, it’s a five-year deal. In other places, it’s ‘No, we don’t want that. We want the flexibility’. If they don’t meet our requirements, we discontinue use and it’s that sort of relationship. So there are all sorts of ways in which the configuration of other helpers can be arranged, but it needs to have someone or some grouping that is in control that will take on some other agencies or support initiatives and drop off others. It’s got to be robust enough and brave enough to bring on new ones, drop old ones and make ones that they need that aren’t currently available.

You will interrupt me, won’t you?

MAGGIE ATKINSON: The thing that you’re sparking in my head, Carl, is this thing that people have said to us when we’ve gone out on the ground, which is that the interventions of others are about, yes they are about really good, robust and properly managed specified quality assured alternative provision, but they’re also about the access by troubled children to early intervention mental health services or to preventative work with people they can look up to if there isn’t a male or female role model in their lives at home or... it’s that sense of the school not just being a bubble where learning and teaching take place, or the alternative provision not just being an alternative bubble where learning and teaching takes place, but the notion of those who provide services in the community see the school

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as an adjunct of that community and the child as a member of that community and therefore providing services that come in. I don't know whether your research has...

PROF CARL PARSONS: Well, yes. I went to one school which actually has an Every Child Matters centre which sort of seems a bit yucky but it's brilliant, and also in the same school, they had two attendance officers, 'Do you want to meet them?' I was told. Why would I want to meet the attendance officers? These attendance officers went out to homes. They made in the course of a year something like 300 home visits. This wasn't just a phone call when the child was late or a follow up when he's missed a few days. They had competitions, class competitions for attendance and so on which were big with prizes for whole classes like, you know, stretch limos arriving to take them to a disco on an afternoon with staff running beside the limo with earpieces in as though they were – yes, and this was a real big thing.

In that school, in their Every Child Matters centre, CAMHS [Child and Adolescent Mental Health Service] came in. It did its work within the school, with a child, with a learning mentor or teaching assistant in there as well so that the school could carry on working that was proposed by the mental health specialist. I was going to come on to two things which I think are in this field, one of which is family work, I think is vital. There's a thing that I do with students at every level which is get them to allocate 100% of the, if you like, cause of problems across the child, family, school and neighbourhood, and then allocate the effort that is put in in those same four quadrants and what you get is that the majority of the cause is allocated to the family but actually our input is with the child and with the school, and it's increasing. The results I had is evaluating a family intervention project in Medway, and I was impressed with the work they did, the quality of the workers and quite clearly the savings that were apparent from it. There is a nice savings tool that the DCSF produced and it's still about under DfE.

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Related to that, it's the notion of the full service school, the community school where the headteacher, the principal is no longer the person who does the assemblies, and curriculum development and the hiring of firing of teachers because he/she is actually a community figure who sees his/her responsibility as being the wellbeing, the care and learning of all of the children in that area. It's a pity we don't have catchment areas in the way we once had, but their reach extends beyond 5As to Cs or just basic skills learning. It is about contributing to the richness of that local environment and the nurturing that someone should be taking a wider view than has traditionally been the case with headteachers. Although I'm speaking mostly now of secondary schools, by the time many of the children who will pose us problems in mainstream school reach there, they've been through primary school. One school in which I'm doing some work has an intake at year seven which year on year has been very low in terms, particularly, of literacy attainment, and if there were in this community of educational provision the ability for some of them, secondary schools also have influence on children who are coming up to the foundation stage profile, to have some recognition of the challenges that many of the families face and a role in interventions which may help those families provide better for the children in the earlier stages of education.

It's the closeness and the degree of organisation of these other services. I mean, there's work on Total Place and so on and there are now a number of school federations, most of which don't have a body of primary schools children who move on to that same secondary school, but nonetheless, it seems to be a way forward where we can point to early signs and we so often and so easily can, of children falling behind, but then we start lamenting the fact that they're so far behind when they're 11 or 14, and other problems arise, and many teachers have said to me that one of the biggest problems they have,

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behavioural problems when they arise, seem to come from poor literacy skills; children having trouble in the classroom just following things.

I don't really like the term 'accessing the curriculum'. I don't know why, but they can't learn what's put before them because they can't read. They can't produce the work that is demanded because they can't write about it because they don't do it, and they have a huge lack of confidence in that area, but if those had been addressed, you don't need to at best at 14, so the early intervention is important, but it's not... it's no good just switching the resources back; it needs to be followed through. I do have some doubts about early inoculation and they're fixed for life, because many of these children will be in communities and in families where the lack of education or support, if you like, has continued throughout their young lives and they will need support. It may not be huge support, but they will need something extra.

Another school I spent time in has an 8.30 until 5 day. They don't take homework home. They have a study period during the day. It's not that it's always done that well, but the idea seems to be a good one. I've gone over that.

Your fourth question is it about illegal and informal exclusions; do they happen and are they widespread, to which my answer is 'Yes, they have to be'. There's so much hearsay that it can't be wrong, but it does cover such a spectrum of actions from headteachers, senior teachers in school from the most subtle hints to the crudest threat and it's sometimes a subtle hint, you'd be hard put to judge them as illegal because it just is ... 'if things go on like this we're going to have to exclude your boy permanently', and parents take their children away. Or keep phoning her, keep telling that mother that this child is a problem and guess what? The mother takes the child out of school and then there's a story that the child's gone to live with her dad in Leicester, but the school file never goes on to anyone else. I don't know where you put the line and I have various

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ideas about how you can research that, and I don't think you are looking into it, but to get good data on the numbers who are out of school for reasons which seem to fall outside the formalised fixed term or permanent exclusion guidance is quite a difficult one, but I would imagine that if you drew the circle generously around what is unsatisfactory anyway, even if it isn't illegal but it's informal and sometimes it's just, 'Well, the parent took the child away'. The parent took the child away because life was made so unpleasant for her, him, the child himself, but I would imagine that it dwarfs the figure for permanent exclusion, and one could extend the whole area of concern to 'children missing from education', but it's not our business today.

Another of your questions was about the appeals system being fit for purpose and our answer has to be it is not. Our inquiries indicated that – well I think the national figures are showing that about 25% of appeals are successful and under half of those resulting in the child going back to the school from which they came, but the biggest drawback about it is the time delay and bigger still is the focus of the appeal because it is odd that it is on the child's guilt: what are the school rules that were contravened and was the punishment proportionate and it's not about the best interests of the child? That doesn't seem to come into it at all. There is also the question of what does the school do in addressing the problems that were arising but parents are just utterly outgunned in an appeals situation. School comes along with a big file and they can give you a chart showing all the things he's done in the last two years and we failed to turn the child around, therefore we had no option, 'We had no option'. How often have we heard, 'No option'? No bloody option. I mean, they must be unintelligent to say that. It never is, 'We had no option', never, I argue, and it becomes a convenience, it becomes an open and accepted thing to do. I love the business about, 'Get a barrister in'. Get a barrister in. Schools have got barristers in from time to time, particularly when they know on the other

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side parents have brought in their own advocate, whether paid for or from a voluntary organisation and this seems to me to be a hugely wasteful, delaying and, in the end, for the excluded child, a poor way of dealing with it. Most of all, I lament the three weeks until the governors have made their review of the headteacher's decision, and then a further three weeks for the Independent Appeal Panel. So you've got six weeks. It's all very well to say from day six, the local authority takes on the responsibility of educating a permanently excluded child, because a fixed term exclusion of any length in school has to continue this, but for a permanent exclusion, the child will be out, a letter will go home saying the child has been allocated a place at the PRU. The child doesn't turn up. A whole term can go by and then there'll be a stiffer letter and so many local authorities will argue they do not have the resources to go out and find this child and bring them in or to go into the business of legal proceedings to get the parents to bring the child in.

Sending work home is just not good education, to a home which is often not the right place for the child to be educated. It's also the case, I think, that the Council of the Tribunals or whatever it has now become, the new name, that said that it is not a good system, but my worry is that they want to professionalise it, not humanise it and not necessarily make it speedier.

What an improved system is I think are the Children's Hearings in Scotland. It is certainly many strides ahead of what we have, what we do, and you'll know all about that, but my colleagues in Scotland say it's not as good as you think. There's kids out of school still, and it's certainly not done with the same sort of punitive edge as it's done in England. The impact of the new Education Act, there are things like... there's the free schools and academies increasing in number which could be a worry, but my experience has been that some academies work as well with their local authority school colleagues as they ever do.

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Some do, simply float off totally independent. An increasing number, I think, are remaining within the local band of secondary school providers.

The part of the White Paper which is proposing that you can exclude but you must pay for it, you must find the place and so on; we are working and the message that a small group of us are putting across now is not, 'Ban exclusions; make them illegal.' It should be possible for it to say, 'You don't have to do that. You're in clever places, be clever.' You could, in ways which will preserve the education of these children, for whom someone has to take responsibility, so to them it would be, 'Why don't you?' When I've been asked by a journalist about schools having to pay for it (an exclusion), they won't like that will they, my response has been 'they already do', and some headteachers know that. They will know that and they can move to that position where it's 'Right, it's our money. We can handle it and we can do better with it than is currently done'.

Another thing that's been bad about the system we have is that if a school puts a child out, permanent exclusion, there is an absolute full stop as far as their responsibility goes and they can feel that as well and the local authority has to take it on. Now, one head I was talking to said the five of us have the money and the PRU is our responsibility. Even if they get the money and they give it back to the LA to run the PRU, but 'it's our PRU, and if we're not totally happy about it, and if it doesn't improve then we will do something else with it. It's our job to make it better, mind, and I have to be able to look a parent in the eye and say the place we're sending your child is a good place', If we can keep that local responsibility, and that the problem is to be solved by the people who know the children best and know the local provision best, there is room for optimism

I argue with local authorities on this as a lot of them do not like to devolve money to schools, 'you can't trust heads', they say. And my response is 'they're paid more than you. They have budgets of £5 million. They have 200 staff, 1,000 kids. They're big players.

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Work with them. Yes, some are a bit sort of canny with how they manage themselves, their relationships with others and some of their more difficult children, but work with them. In one zero exclusion area that I've been working with, I found it unbelievable how negative the local authority has been about the success of this zero excluding cluster who took the money for the PRU and did their own inclusion units and it does sound very clunky. You know, we'll close the PRU and we'll set up a unit and so one school has got the apocryphal three mobiles down on the far car park, – they call it LIFE, which is learning is for everyone. The headteacher wants to know what's happening with those children who were previously being excluded and they're in there for a short while or a longer while, or they're there for practically all their Key Stage 4 with the outreach stuff, the off-site location stuff being handled from there, but it's theirs, and I think that the likelihood is that the current system that is being proposed and it's a three year pilot before things get implemented in a widespread way, we're going to have to wait a while, but a good many of the areas which are advising the current pilot sites are already doing it that way in Staffordshire, Cambridgeshire, North Tyneside and so on, so it could be contagion before it becomes compulsory which must be a good way of things developing and evolving.

In a sense, it's a pity that we have any government, any set of parties in control who have to make it plain that they are willing to punish. Punishment and discipline is an important part of it and we want to be shown to be upholding law and order in children and we're not brave enough to come out to say it can be different. It's so easy to just carry on excluding, isn't it? In Finland, they wouldn't talk like that. They would talk about the best interest of any individual child and what you would do and so on, and our macho approach is not helping us alongside the new arrangements that might be there. I think Labour did a good job over its thirteen years in encouraging all the provision that was

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alternative, supplementary and complementary to what schools were doing, but there is no doubt that the guidance they were producing and the suggestions over time was just becoming very weighty and I quite like this simplified localism that we heard about.

Another question was about the extent to which local authorities and sponsors of schools play a role and the motive behind our research on strategic alternatives to exclusion was our belief that local authorities had a huge role to play, often underplayed, but where they did their job to the schools, with the schools, then the outcome could be very favourable indeed. It's the multiplier effect by working upstream and I have been to the Specialist Schools and Academies Trust (SSAT) to berate them about the rate of exclusions from academies and ended up writing a piece for Academies Update showing that an academy had joined a group with three other secondary schools to be a zero exclusion cluster, but I believe it is a concern and they do not like bad publicity that can arise from their disproportionate levels of exclusion but we do have to accept that the original sets of academies were amongst the most challenging schools in the country and I have this example, only one incident I have to go on, but some of academy responses to difficulties have been exceedingly quick, much quicker than I have known local authorities to act with regard to a school that's in trouble, but the local authorities, in whatever diminished form they might take, have a role to play. If not that, we have a belief that there has to be a hub locally that will deal with the in-year-fair-access issues and managed moves together.

Provision to prevent permanent exclusion, where it's hardly improved, I think it is ineffective, is in the area of ethnic minorities and I think schools are alert to the disproportionate exclusion of some groups and who take action do get results. It seems sort of obvious. Again, it's intelligent design of the provision of education. In relation to ethnic minorities, which is the area I know best and you may be aware that you I did an

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evaluation as to the impact of the Race Relations (Amendment) Act 2000 and the schools which organise, focussing on a group known to be at risk of permanent exclusion, they do have the effect, but it's almost like a virtuous circle. If you recognise the problem; if you recognise the responsibility, if you can do something about it; if you do something about it; if you monitor those interventions that you make, guess what? You will get reduced exclusions of those groups, but sometimes it is just because we've said it's a problem and we don't want it to happen and we're putting extra effort in there and we will get in earlier than we might otherwise have done.

MAGGIE ATKINSON: Carl, we've had some evidence given to us in some of our field visits, very strongly and passionately given, I have to say, by parents from particularly either black African or black Caribbean backgrounds, not... we didn't meet young people in these sittings. We tended to meet parents who'd have doubted the hubs with all sorts of people whose very firm contention indeed, evidenced through personal testimony and story rather than huge numbers of graphs and pie charts is that the system is inherently, institutionally and forever racist.

PROF CARL PARSONS: Well, headteachers will say things like we're colour blind in relation to this. It's the behaviour. That's what they say. When confronted with not just these two kids, two black kids this year have been excluded, but over the last three years, guess what, six? The school's attainment levels for black Caribbean kids are at this (diminished) level over the three years, pretty well unchanged, exclusion remains the same, yet they will still be steadfast which does seem to point to a racist dimension. it depends how you interpret the racism because it can be that it's somehow the blackness or the cultural difference that makes them do it, or it could be that knowing they have a problem, they don't actually do anything about it. There's a piece that I've written which I called Passive Racism; passive racism has a number of different forms, one of which is, 'Well, we can't

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do anything about it at all.’ Another is, ‘We could do something about it, but I’m not going to pay the money for it’. The other is, ‘I could do something about it, but do you know, I’m not because they deserve to be out if they’re going to behave like this’. Once you went beyond that, schools that are recognising and doing something about it clearly are not passive. They are active in it and it is... in the report that we wrote [inaudible], we were indicating also that black Caribbean kids were excluded for different reasons. It was like playground fights and so on. It wasn’t so much classroom disruption but also they tended to be in school a little bit more than other kids who have been excluded, so they turn up and they’re told... if you know there are problems in the playground, you know ... the decent head does something, even if it’s that they don’t have any lunchtime break, you know, in and eat and then back into lessons, but better than that, you know the school I was in yesterday they have World Awareness Day because they know that recognising the migrants, refugees, asylum seekers, they need to do something to value all talents and they put a huge effort in there, and this again is working upstream; it’s not, you know, you’re not to use those words, ‘Black kids’, you know, which makes the whole place one which is receptive and valuing of all comers. I think that you can take other groups who are disproportionately excluded – I mean, in one school a boy on the Asperger’s spectrum was excluded but not for behaviour which was related to his disability. It’s because he can’t get on with other people and gets in fights. It’s not taking the signals that this diagnosis is actually pointing to a problem. The problem is one that you should be solving, you should be doing something about, you should be evaluating whether a solution is put in place that actually works. Don’t say you haven’t got the money for it, you know, use the money differentially, because a business person running a big enterprise with £5 million or whatever, but related to that business of ethnic minorities and the disproportionality of exclusion, I did a paper where I did the exclusions over two years showing that the lines

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on the graph were pretty well unchanged. Digging it out again, I realise that I could cover three years, and the lines will be the same.

JANET MOKADES: But there are huge disproportions between the areas aren't there. I'm assuming that much of your fieldwork is being done in London and the south east. Is that the case or are you working ...

PROF CARL PARSONS: No, it wasn't. It was national.

JANET MOKADES: It was done nationally.

PROF CARL PARSONS: Yes, so ...

JANET MOKADES: So, in my experience, if you look at those figures, the disproportionality between black exclusions in some local authorities than others is... I mean there's a chasm. Do you follow?

PROF CARL PARSONS: I mean our data was from 2002 and 2003.

JANET MOKADES: So, it's quite a long time ago.

PROF CARL PARSONS: Yes, but then and I wouldn't expect it to have changed greatly, but some local authorities with large proportions of ethnic minority kids, they did vary. I mean, as I recall, back then and I don't think it's changed over time, but Lewisham's pretty good.

JANET MOKADES: Well, there are two London authorities who have always been in the very top figures for black exclusions and as far as I know, they still are. That goes back about ten years at least.

PROF CARL PARSONS: Yes, but this is another optimistic point about bringing down exclusion and bringing down disproportionality. It was not just a blip in some cases. They get the figures down and they stay down, and if they can do it, why doesn't it spread? It is plain to see that they decided to do something about it where they're not passively racist. I have a problem with institutional racism you see because it lodges the cause of the

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disproportionality somewhere in the building, the atmosphere or whatever. I'd like to relate it more to specific action or, inaction.

MAGGIE ATKINSON: Anyway, we interrupted you. Do go on.

PROF CARL PARSONS: Well, we are on to the major differences between different groups and it is horrifically repetitive and routine year on year. One bothers me greatly, the free school meals under achievement and excessive exclusions: even using this crudest measure of deprivation. In a school that I'm working in at the moment, I'm writing a book that will be called *Schooling the Estate Kids* which is really making the argument about the imperative of giving them the education that they deserve and they need and if there are problem kids being out of school and not liking education, well maybe you're not investing in that place, which after all suffers a number of other drawbacks.

MAGGIE ATKINSON: What can you expect if you come from around here syndrome, what can you expect if ...

PROF CARL PARSONS: Well, in this school 12 years ago, one teacher said. 'I'll tell you what you ought to research, it's our gene pool'.

[Laughter]

PROF CARL PARSONS: I was walking across the car parks with French colleagues ...

MAGGIE ATKINSON: You've stopped the stenographer in his tracks.

PROF CARL PARSONS: My French colleague said we have no hope here because they need these huge amounts of money and anyway, the genetic makeup of the intake is such that it will not work. It would take a while to change but then you come to this schools which you know and you have to get - drag - it out of them that they have low reading ages on at 11 and so on, but they don't use it as an excuse. In fact, they don't like to use it too much at all because otherwise it becomes a defining part of these lovely kids that are in their school. Group interviewing pupils yesterday and they were such a delight. I also some

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saw things happening elsewhere that I thought were so well dealt with by staff a girl going off the rails, but then five minutes later following calming interventions from two staff, she's sitting down. Is this knowing your problem, investing over time and disproportionately investing in some other things – where needs are greatest.

There is the notion of 'deservingness' which I think is a bit of a problem if a teacher says, 'If I've got money to spare, why don't I spend it on the nice kids who really want to learn and then others...' Do you know, they tell people to fuck off. Did you get that? Why would we want to spend more on them? That's the thing that some schools have workers who are quite capable of taking that, the bad language, and dealing with it and reducing its occurrence over time, but they're grown-ups, you know and can say 'much worse is said to me than that', but it's the kids saying it, and I think that we ought to underline children, children, children. They are dependent. We are responsible. We are the ones who arrange the educational environment in which we put them. Now let's arrange it so that it suits their development.

I'm up to the point dealing with what recommendations that I want you to make. I'll reel them off. The first isn't really a recommendation, but a message that the removal of a child from education is the removal of education from a child. It affects the quality of their care and learning. It is child abuse. That is the term that some of my European, colleagues have said. They've used that term. This isn't a right they have. Child right, human right, it's a civilised society imperative, and if we want children to become part of our society then we have to invest in them. The French do not look at it like that. We want them all to grow up to be little citizens so how can that be, if we take them out of school which is the main institution for creating them, so can we try and get that message across?

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I would say that every effort needs to be made to preserve continuity of a child's education unbroken. There really is no need in almost all circumstances of permanent exclusion, for the letter to go home on the day the child finishes, never to return to that school. It can be, 'You're finished here, but come in on Monday, we'll carry on doing what we have to do. We'll sort out a place for you to go.' It does not have to be that rejection and I have this image of a 14 year old being shouted away from the school gate by a headteacher - this is a fictional image, metaphoric - and they're saying, "Never come here again," and the boy is turning round and saying, "Fuck you wankers, never wanted to be there anyway." I want that child back in the morning to face what he or she has done. If it's a disciplinary thing and not simply a disability mental health, I want to sort out how we can move beyond this. I do not want this child with that attitude going off and feeling justified as well and I do not think the French do it like that, I'm pretty sure of that but my friends in Holland would be aghast, and I'm absolutely certain in the Nordic countries, they would say what have we done wrong that this child should develop in this way? What is it? What fault do we have?

Promoting provision within individual schools or shared resources that can accommodate all. In the research we did, broadening the schools was the first message really, which is you don't simply share your classrooms with a teaching assistant (who polices the child. You have other provision. You have places where children can be brought and these quite a variety of forms and I think it needs to be locally organised. It depends what the school has got by way of assets and this is the instrument we used, an audit of needs and assets and in the local authority if mental health is deemed to be a huge problem if it teenage pregnancy, then what have you got locally that will address these things. What will stop them going from tier two to tier three? What will keep them within the fold and keep their education going?

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Promote a system of mediated managed moves with the appropriate letters home and I think my colleague Adam Abdelnoor sent you something about that. If that is done, and it's what one would rather like as a calm way of dealing with some of the worst cases we have and in this case, the worst case would be a mandatory managed move where it is... it is finished for you here, 'We can no longer accept the sorts of things that you continually do, but we do want you to continue to have an education'. It's that sort of, 'Go from us with sadness but with our best wishes and we'll find a place for you to go', but the managed move which is happening in those places by whatever name, would seem to be the way forward and the more mediated, the more supported, the more agreed with parents, the better. I mean three quarters of parents are coming in when it is requested. Even if a quarter of them are rather robust in their defence of their child to begin with, after the first two or three moves, it is, 'Yeah, we have problems at home as well. Yeah, we need help, yeah, we understand'. It's just people who are willing to spend their time doing that and the skills to manage that.

JOHN CONNOLLY: You've got five minutes left.

PROF CARL PARSONS: It's promote family work either by statutory agencies, voluntary agencies, even private sector agencies as well, but its outreach to families in difficulty, not necessarily when it gets to crisis point, you know, how about getting into it earlier?

I haven't worked this one out fully, but set up regional panels to resolve disputes but quickly so it might do something like an Ombudsman; it might replace the appeals system as it is, but at its centre should be firstly a child's wellbeing concern and the second is whether the area is functioning as it should to provide in a timely way for all of the young people who come its way?

MAGGIE ATKINSON: Should its work be binding?

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PROF CARL PARSONS: Well, can I say, there is a question actually I missed which is about the equality and so on, and our work on the Race Relations (Amendment) Act was that the CRE was massively underpowered to get compliance and I've seen the final report before it moved into the Commission for Human Rights, and they were scathing even of government departments, but my criticism was they sent out something like only 22 compliance letters. That is all. You know, they didn't get down to the institutional level and it was more a hope that embarrassment might lead to the result... I can't give a simple 'yes, it ought to be statutory or mandatory' because I don't know whether you could actually do that, but it needs to be a Panel that is sorting out the best consequence for that young person for whom mainstream education seems to have been a huge problem ...

MAGGIE ATKINSON: Carl, that's been a very useful exploration I think of much of the territory that we've been exploring and we do have access to your work. Obviously if there are things that you think help, just [inaudible] as an email attachment or whatever, or you want to send us hard copy material. We're not closing, we're not absolutely closing our books until January, although every time I say this, the team goes, 'Don't ask anybody else for any more,' but the greater and fuller the picture we can give, the stronger the policy advice and the policy warnings we can give and the practise advice and the practise warnings to the system because it is about the children.

I don't know whether the panel members have got reflections that they want to throw back at Carl in this last minute or two.

JOHN CONNOLLY: Two things. One, thank you very much indeed. It's been great and other is you said do something about, and know the facts, know the problem and spend differentially... I hope I'm quoting you...

PROF CARL PARSONS: Yes.

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JOHN CONNOLLY: If you could send what work you've published or not published but written on that differential spending, you know the practical things, even more practical than you've gone through in the last few minutes, I think that would be very valuable. Certainly I would find that valuable.

PROF CARL PARSONS: I will do so. It's not something I have, but I can certainly put together some examples, like best practise in this.

JOHN CONNOLLY: I think it would help us, but also if we quoted it, it would help our readers to give examples.

MAGGIE ATKINSON: Because this notion of the system not learning from its own best practise is something that has bugged me forever, really. We've been into zero exclusion areas and seen the most amazing collaborative work between very, very different sorts of schools and in the place next door, it's nothing like zero exclusion and you wonder why that is, so ...

PROF CARL PARSONS: I think politicians, local politicians have a part to play. We certainly had an instance of a local officer going out to have a go at a school head who she felt had permanently excluded wrongly. The head was angry, got in touch with his local councillor who went to the council chamber and said this person, you know, what are they doing employed by us and they're doing this, and was told by the leader of the council, 'This is an inclusive local authority. Go back and tell your headteacher not to do this sort of thing.' Now, that is a nice example but I do think that senior local authority people benefit from backing from their political masters and mistresses. Even though they're quite often ignorant, they really exercise great power.

MAGGIE ATKINSON: Thank you so much for being our very first witness and you know, if you go away and you're sitting on the Tube and you think, 'Should have said that, should have said this,' you can email us still and I'm sure we will go, 'Thank you so much.'

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PROF CARL PARSONS: Thank you.

[End of hearing]

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OFFICE OF THE CHILDREN'S COMMISSIONER
SCHOOL EXCLUSION INQUIRY

At

Meeting Room 8
33 Greycoat Street
SW1P 2QF

On

9th December 2011

Present

Dr Maggie Atkinson – Children's Commissioner
Mr Robin Richardson – Education Consultant
Mrs Janet Mokades – Schools Adjudicator
Mr John Connolly – Policy Director

Interviewee

Susan Morris King HMI

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MAGGIE ATKINSON: If you want tea, coffee or you want the remnants of sandwiches and buns, please do. Have you had lunch? If you've not had lunch, do.

SUSAN MORRIS KING: I don't think I can eat and concentrate. I should concentrate, thank you.

JANET MOKADES: Take a doggy bag.

SUSAN MORRIS KING: Thank you.

MAGGIE ATKINSON: And welcome to your colleague.

SUSAN MORRIS KING: Thank you. This is Paul Harrison. He's the Parliamentary affairs manager and he's accompanying me today.

MAGGIE ATKINSON: Okay. You know some of us, Susan, because you've been at the Round Table.

SUSAN MORRIS KING: Yes, indeed.

MAGGIE ATKINSON: But if I take you round who the rest of us are. It's great that you are here. I saw Miriam at the Abbey and she said it was great that you were able to come, which it is.

SUSAN MORRIS KING: Thank you.

MAGGIE ATKINSON: So, I'm Maggie Atkinson, Children Commissioner.

JANET MOKADES: Janet Mokades, former HMI, currently school's adjudicator.

MAGGIE ATKINSON: Rhodri is our verbatim transcriber and stenographer, so I'll talk to you about what we're actually going to do with material in a minute.

ROBIN RICHARDSON: I work as a consultant in education, particular interest in equality matters.

JOHN CONNOLLY: John Connolly, principal policy advisor on education here.

MAGGIE ATKINSON: This is the first day of us taking very formal evidence. You are only our second witness so ... it will be recorded verbatim and we will get an unedited transcript to you in much the same way as select committee clerks do so you can check it for accuracy

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and for infelicity of what you thought you were talking about and what actually came out, so and we can either footnote or work with you to amend text, but of course, this is spoken English so it won't be grammatically wonderful all the time, and if it isn't that's absolutely fine.

SUSAN MORRIS KING: Okay.

MAGGIE ATKINSON: When we've been out and done fieldwork, and we've done quite a lot of field visits, whoever we met, whether it be parents, children, governors, heads, whoever, we are going to try to quote them without attributing. We may well say, you know, 'Male, 14 years old, ethnic group, type of school,' but we're unlikely to say, 'They were in Nether Wallop Comprehensive School and it was half past two.' These sessions, these formal evidence sessions are verbatim, fully recorded and attributable so if at any point you want to say something and you think, 'I better say this off the record,' if you signal that, we can by all means take it as an off the record comment.

We're aiming for publication and the final report of our work in March of next year, and we're working with a member of the Select Committee to create the space for a Parliamentary launch, probably at Portcullis House, and you will be notified because you've been stalwart at the Round Table as well as coming to give evidence this afternoon, so, we sent you a framework, a thinking framework of questions.

SUSAN MORRIS KING: Yes.

MAGGIE ATKINSON: And rather than us playing head tennis, and I've forgotten to introduce [inaudible] who is part of my communications team and is very strong linked to this enquiry and I'm desperate to find out how he got on at the Society of Educational Journalists, because I think he was tapping some people up for the potential of reporting.

Rather than us playing head tennis and asking questions as if we were an interview panel and you were answering, it would be great if you felt okay to use...

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SUSAN MORRIS KING: Absolutely.

MAGGIE ATKINSON: ...the questions as your framework and then if we want to interject we will. There are only three of us here from a Panel of half a dozen so they won't come through the Chair. They'll just launch, so we're in your hands and John will keep us to time.

SUSAN MORRIS KING: Okay, thank you. So, the first thing that you asked about when you sent us the questions was twofold, I think, really, which is the inspection evidence regarding thresholds for exclusions and the differences in behaviour policies between schools.

If I can just turn that round and start by talking about behaviour policies. What inspection evidence shows is that the policies themselves differ in clarity, in content, in emphasis, but very much differ in the consistency with which they're applied across schools, and if you read any of our surveys on that matter, on that topic or the annual report for comments on this, the consistency aspect is really important.

So, if I can give some examples from my survey findings, so we did a survey about the exclusion of children aged four to seven. That was 2009 and I provided that to John as part of the evidence when we were scoping, but we went to visit 30 schools, primary schools with very high exclusions and we visited another 27 that had excluded none or virtually no children of that age group and one of our key findings was, and this is what we wrote, with the exception of two of the schools visited, written behaviour policies were at least satisfactory, so that included the 30 who actually excluded, children, so on paper it was fine, but the extent of their effectiveness was determined by the actions of the school. So what we wrote was it was determined by the degree to which the head teacher, senior leaders and governors had helped staff to have high expectations based on a clear set of values, clearly communicated and applied consistently, so we had that consistency coming out again, and what we said was that where this was a strong feature, the schools

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were able to reduce exclusions or cease to use them as a means of controlling pupils, so what really mattered then, was not so much what was on paper, but actually what was happening in terms of the expectations, the setting of values, the creating a positive climate for learning.

Another example where we've talked about this was in our report on improving behaviour in 2006 which was all about schools where behaviour had been unsatisfactory and they'd turned this around and we looked at what had happened there. That was 35 schools, and actually the report started by stating, 'Schools can reduce low level disruptive behaviour in a reasonably short time using simple strategies if everyone uses them.'

Now, I know I've talked about low level disruptive behaviour there and I think the important point there is, that we consistently pick up on, is that actually where schools do this well, they actually start at that very, very important point of low level disruption, so issues are stopped before they spiral out of control.

Then a point on policies, that we often comment upon in surveys but also in the annual report (this comes through s.5 information as well as does everything I've just said) is monitoring and evaluation, so schools have their policies, but what we know from our evidence is that how the senior leaders actually monitor and evaluate how well those policies are implemented and really importantly, how consistently they're implemented is absolutely crucial, so for example in the schools that I've just talked about, they rigorously monitored and evaluated how well staff implemented the policies and where challenge was needed to staff about that consistency, it was given and where support was needed - because it is sometimes support that's needed - that was also given, and also, those senior leaders had that high profile monitoring of behaviour throughout the day, being out and about, sensing what was happening in the school, taking action quickly when needed.

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The final part of that is the analysis; analysing incidents of unacceptable behaviour to establish where it happens, when it happens, with whom does it happen, what time of day, is it to do with settings; is it to do with dynamics and interactions between the groups, so the monitoring and evaluation, together with the consistency, together with the dealing with the low level disruption as it occurs all very, very important aspects in terms of policies. Those were the things I particularly wanted to raise there.

Shall I carry on?

MAGGIE ATKINSON: Please do until somebody goes, 'Can I just pick you up on?'

SUSAN MORRIS KING: Certainly. I'm taking this to mean, I'm taking your question to mean do schools exclude for different reasons at different points. Is that correct? Okay.

So, I think a good example is going back to the exclusion of children aged four to seven survey. Now, that did indicate quite clearly some different thresholds at which schools will exclude because when we carried out that survey, what we did was we paired those schools up, so the 30 and the 27 were actually in pairs, just a couple of miles away from each other... with similar catchments, so you have a school with very high exclusions matched with an equally challenging population which was not excluding at all, so we had that matched set.

And we found very, very different things obviously. Almost all the schools that we visited, I would just like to mention, were in deprived communities, so 39 of the 69 were in the highest 20% for free school meals, and what we said then, which I've already touched upon this, is that what determined the school's rate of exclusion wasn't its social context, but it was the combination of its philosophy, its capacity to meet the challenges, whatever they may be and sometimes, it was the response, it was partly the response rather, of local authorities and other agencies. That was how schools perceived it partly when they were asked for help and we talked in that about early intervention based on

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monitoring and evaluation being really important, help in managing children's more complex behaviour, of strategies such as nurture groups.

The philosophy part was really important and re-reading this report this morning what came out quite clearly was in the 27 schools that didn't exclude. Some of that was because the head teacher said, 'That's not what we do with this group of young children,' so they'd actually set their stall out to say, 'What we do is respond to their needs. We teach them what good behaviour looks like. We don't assume that it simply happens (which is a strong thread on that one). We provide support. We are responsive,' so in that instance, quite different thresholds.

Three of the schools that were very high excluders in contrast actually had very clear policies to exclude, so it was part of their behaviour management system and they were quite open about that, so thresholds; I think that's quite a good example.

When we wrote the report about 12 outstanding secondary schools, so these were all in challenging areas and they had been outstanding on two consecutive occasions, we noted in that report that in terms of *permanent* exclusion (because most of what I've just said is about fixed term exclusion), in terms of permanent exclusion a lot of schools do keep that as an option as a last resort, but then there are those that don't, so one example that we picked up on that report was a high school that had as challenging a population as any, but had actually made a policy decision, the head had made that decision not to permanently exclude any children and he hadn't done in 13 years at the time of that report being written, so he'd set that threshold and his words were, 'You have to change the culture in which exclusion remains as one of the sanctions. If we were to exclude, I estimate that over 60 students would have been excluded during this period. If you exclude one boy, another will pop up. It's far better and more consistent with our culture to use that huge investment in pastoral support with many skilled non-teaching support

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staff and our ability to personalise learning to address the problem,' so he'd set a very clear threshold there which was, 'No we don't do it.' That quote was from the report and from the head teacher not from me.

One other point that I wanted to raise on the threshold aspect that what we also learned from inspection evidence is that those thresholds can vary according to what we might call the point of the school's journey, so high exclusions can, fixed term or permanent, can represent systems that are simply not working, but occasionally, high fixed term exclusions for a short period of time while a head teacher and senior leader is trying to establish calm, for example, in a school where there are really serious behaviour issues, and to draw a line in the sand. That is sometimes used.

Now, our evidence would suggest that where this is used thoughtfully and where it works well after that point, exclusions then go down. We've seen those situations in the exclusions of children aged four to seven report. We did a report on schools that went from special measures to good or outstanding. In two inspections, we saw the same pattern then with some of those heads who had come in and drawn a line in the sand. Exclusions had gone up for a while, then once they'd established the routines, they had gone down and an example in the 12 outstanding schools report, one head teacher excluded really large numbers of pupils. In the report, it says 300 fixed term exclusions in the first week, when he took over a failing secondary school, but because he combined that with many other approaches to stabilise the school, including seeing every parent of every excluded child, that went right down and at the time when the report had been written, the school had been outstanding for two inspections running and there'd been only two permanent exclusions in a seven year period, so that had completely turned round. The thresholds were completely changed.

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They were the main points that I wanted to raise on thresholds and policies. Would you like me to carry on?

MAGGIE ATKINSON: Please do unless the panel members have got questions of depth, do go on to it.

SUSAN MORRIS KING: Okay. You asked whether there was any evidence from Ofsted regarding the prevalence of illegal exclusions being used by schools. We can't comment on the prevalence. We don't have that evidence, but when we did a survey of children who are missing from education, we did find some occurrences of that happening, and what we reported was that was in around half of the authorities surveyed, we had 15. Not big figures, but half of them were particularly concerned about the risks posed by unofficial exclusions and one of the officers then called them back door exclusions. He said there are the, 'Don't come back until we tell you,' types and he went on to say some young people and their parents take this instruction literally and the young person's at home for weeks before this is then picked up as a non-attendance.

We also have, one of our HMI went out on a truancy watch with a group of people in the authority and at that point, a young person was picked up during that truancy sweep when the inspector was present, and he said he'd been out of school on what he called an exclusion for four weeks, but actually when that was followed up, there wasn't any record from the school of that exclusion having taken place, so parts of evidence that came into that report, and we did note at that point that where schools hadn't followed the procedures for exclusions, the vulnerability of pupils was significantly increased because they were out of school unofficially, so the preventative work that should've been going on and the reintegration wasn't actually happening. Agencies weren't aware of the potential vulnerability in that situation, where they needed to be.

I don't have any more to say on the illegal exclusions.

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MAGGIE ATKINSON: The Centre for Social Justice published in July as you know.

SUSAN MORRIS KING: Yes.

MAGGIE ATKINSON: And we've talked to them and they're going to come and give some more formal evidence.

For us, we are expecting this issue to be one of those elephant in the room, bad smell, drainpipe sort of things that won't go away, so I think we will have to say something about it because everywhere we go, somebody says something. They do it round the corner, they do it in the other borough. We don't do it here.

SUSAN MORRIS KING: Yeah. There was one more thing actually that I came across this morning when I was re-reading some papers, which was when we did the exclusions of children aged four to seven, in the high excluding schools, some... there were several heads who did say to us that actually their figures on exclusion had gone up when they'd taken over as new heads, because they had found that previously children were being 'sent home' after an incident, sent home to calm down, i.e. sent on an unofficial exclusion and then when these heads have come in, they've made it all official. That really is the extent of our evidence on that issue.

MAGGIE ATKINSON: It would be interesting, I think, to continue to talk with Ofsted colleagues and I hear your signal that because it's not formal, because it's not systematised, how would an inspection system pick it up, but one of the other things that we're picking up to some degree is that in some places, there is what schools choose to get the parents to sign for is elective home education and it's nothing of the sort, but I mean, if there's no evidence, there's no evidence.

SUSAN MORRIS KING: No, there isn't but, if I can just draw your attention to our new evaluation schedule for January 2012. One of things that we ask inspectors is to consider the typical behaviour of any pupils who are not in school during the inspection, so that is

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something that I think will be helpful. Also, the behaviour and attendance of pupils who have been educated wholly or partly off site, which only partly relates, but I think it's another important point.

JANET MOKADES: I wonder if there's anything coming in via the other screen of inspection, via the looked after children and safeguarding inspections where quite often young people in those groups who are only in school irregularly or possibly not be in school at all might get seen or be case studies that were followed up as part of the case study analysis.. It just occurred to me there might be another source of information from that side of the...

SUSAN MORRIS KING: There might be and we can find that out. I mean, that's something we can go back and ask.

MAGGIE ATKINSON: That would be useful

JANET MOKADES: That would be useful to know and that recent report that looked at serious case reviews very helpfully focussed on the upper end in a way that we've long needed that to happen, and I'm wondering there some of the... yeah, because these are often young people aren't they who are not in school for whatever reason. Just a thought.

SUSAN MORRIS KING: No, I think that's...

MAGGIE ATKINSON: That would be useful.

SUSAN MORRIS KING: We can certainly go back and ask that question, and if there is anything else we can offer, then certainly get back to you. What's the timescale? What's your deadline on this?

MAGGIE ATKINSON: We're saying to people we're not going to close the books until January, so... but we then do need to stop doing the magpie thing that I'm famous for and actually get on with it and write the report because I'm the... just one more thing, just one more thing in the team and we'll need to be controlled. People know that.

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SUSAN MORRIS KING: We can certainly go back and see if there's any more evidence on that point.

MAGGIE ATKINSON: Good, do go on.

SUSAN MORRIS KING: Okay, so you asked about what the evidence from inspections tells us about the link between effective behaviour management and exclusions. Evidence over time, and that's s.5 inspection evidence, s.8 evidence and surveys consistently shows that where behaviour management is effective, the need for exclusions is minimised. I think it's important, though, to emphasise that it's a lot more than just the literal management of behaviour. Our evidence points to strong links between behaviour and appropriate curriculum, behaviour and the identification of pupil's academic and social needs and that tracking of pupils' progress and needs; behaviour and teaching and behaviour and pastoral support, so all those links that actually provide support for a young person, so for example where the curriculum engages pupils and where it's adapted appropriately to their needs, we know that the behaviour is more likely to be positive. The alternative provision survey got strong evidence of how for example where that was used well, it re-engaged some of the most challenging young people in the school. Where it was used properly, then that was actually very successful in preventing behaviour from deteriorating and in some cases, from preventing exclusions. Some of those young people that we spoke to, the schools described as being on the verge of permanent exclusion before they put that in place, so that curriculum response is really important. That's really about sometimes using some creative approaches. Equally, and this relates to the alternative provision survey, some primary schools use nurture groups very well and have very low or no exclusions and a number of the non-excluding primaries that we looked at used nurture groups and they saw that as absolute key in preventing exclusions from happening. We have a consistent set of evidence on successful behaviour management and I've talked already about high

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expectations. Consistently, our evidence tells us that high expectations are very, very important, but applied consistently. We frequently note in annual reports and survey evidence that actually, it's absolutely crucial that the school is seen as a place of learning, so that's about that emphasis on behaviour for learning, rather than behaviour for the sake of behaviour as it were. Where schools manage behaviour successfully, thereby minimising exclusions, senior leaders see that as an integral part of school improvement, so it's not behaviour management as the add on or bolt on. Staff are well supported by absolute clarity in terms of the school policy and I've mentioned before that then they're supported and challenged to actually make sure that that policy's implemented. One of the findings, or one of things that were noted in the 12 outstanding secondary schools report which I think is important is that the behaviour issues were managed very well without creating an oppressive atmosphere and in a number of reports, we've commented on the importance of that recognition of success, whether that's in behaviour or academic or progress terms, and that celebration of success and yes, having sanctions, clear, staged, age appropriate sanctions, but those used only where necessary with the emphasis on the positive and again, consistently we find that where there are those, that celebratory culture, the reward schemes, the incentive schemes, the praise, specific focussed praise and a high degree of consistency in the use of that, then that does have a positive impact on pupils' behaviour whatever the age of the pupils. If I just focus briefly on the schools that I talked about before that had improved behaviour from inadequate to satisfactory, so the 35 that we looked at in 2006, the first thing that we said about those was that the schools had not just looked to improve behaviour in isolation. They'd looked to improve teaching and learning so that the pupils were starting to see the point of actually being at school and enjoying their learning. They'd involved students in the improvement strategies. They'd actually celebrated the students behaving well, monitored and evaluated the policies;

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they'd done the analysis of the unacceptable behaviour so all those key threads are coming in there. High profile monitoring by senior leaders, and in those schools, what they found was that as they did all things and as behaviour generally improved, the schools calmed down, the majority of pupils were complying. Actually what they then were able to do was to identify the students who needed additional support, the vulnerable students who previously had been mixed in with everybody else. Where most pupils weren't behaving well, they were lost. Once the school was calm, there was a focus on learning, the vulnerable students or those with real behavioural difficulties emerged and were able to be supported in a more focused and more targeted way. In the exclusions of children aged four to seven, a lot of the same threads, but I think an important finding there in the non-excluding schools was that they didn't assume that young children would know what good behaviour looked like and they actually systematically talked to them about what was expected, taught them what good behaviour looked like, taught them what good behaviour for learning looked like, which was about I mentioned at the very start about the importance of dealing with low level disruption. That was also something they did very well so that things didn't escalate, and another key point there in terms of preventing escalations that lead to exclusions was that they'd very much recognised that sometimes an incident is not what it seems, so when there'd been a falling out in the playground, maybe a little fight in the playground, actually, they talked to all the children involved because sometimes the child who had hit out at another one had been the victim of teasing or bullying leading up to that, so they didn't just react to what was actually seen which can sometimes lead to a reactive sanction, which could be an exclusion, so that was very, very important. Links with families in terms of behaviour management; consistently what comes out is that where schools manage behaviour well and positively, they have close links with families; they work with parents or carers; they involve them at an early stage

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and they involve them in a positive way as well, so that the parent isn't just getting that letter on the doormat or the phone call when something's gone wrong and so that positive culture can spread to the families praising their children as well and working with the school, so that when things do go wrong, the relationships are already established. Finally, in terms of behaviour management, schools that manage behaviour well also understand the importance of break and lunch times being managed well because that unstructured time where children and young people are socialising with each other can be very difficult for some young people and so schools that manage behaviour well we fairly consistently find, actually, think about different activities, different structures, at break and lunch for all the different groups of learners that they have. Do you want me to move on?

MAGGIE ATKINSON: Please do, yes.

SUSAN MORRIS KING: So, you asked what do exclusions levels tell us about the overall effectiveness of a school. We have guidance to inspectors that underpins the evaluation schedule and this is published so that schools and inspectors can have this, and in that, we state, 'Exclusions should not be used lightly, and pupils should respond to it. High exclusion figures and particularly the repeated exclusion of the same pupils are not consistent with good behaviour overall and also needs to be considered when making a judgment on the aspects of leadership and management and care guidance and support,' and we then go on to say to inspectors in this guidance that high exclusions either overall or the particular group of pupils are likely to indicate insufficiently effective systems and structures to support pupils including basic behaviour management to prevent low level disruption,' so there's quite a clear steer to inspectors that if exclusions are high, they need to look at that in more detail and there's then guidance about looking at how that behaviour may link to unmet learning needs such as literacy difficulties and probe underneath that, and it says to inspectors to ask schools for their own analysis of

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exclusions data and to consider aspects such as the ones that are in your scope actually; are there over-representations of groups, so different ethnic groups, children with special educational needs, looked after children. Also a clear steer, and this is quite clear in the guidance about repeated fixed term exclusions and what we say there is if exclusions look fairly high, that if each pupil's excluded only once for a short period, this may indicate that exclusion's being used as a 'short, sharp shock,' particularly if rates are reducing, but repeated exclusions of the same pupils show that it is not an effective sanction and support for improving behaviour may be lacking, so that's a clear steer to inspectors on that and schools and have that guidance as well if they wish. In the new inspection framework, in the evaluation schedule, it notes that the inspectors need to look at the rates and patterns of fixed term exclusions and permanent exclusions, again, noting, including the different groups of pupils and to look at the impact of the school's work to follow up and support excluded pupils, but I think it's also important to note as I've already said that at some times in some schools' journeys through improvement, exclusions may sometimes be high for a good reason, to stabilise the school. We would be looking, then, to see if they were then reducing because if all the other strategies are being effective, then high exclusions shouldn't be maintained over a long period of time. If I move on to the next section. We don't actually have any evidence of this. You ask do particular types of schools have different approaches to exclusions or thresholds for exclusions. I take it you mean, for example ...

MAGGIE ATKINSON: Faith schools, academies, trust schools, private schools, whatever.

SUSAN MORRIS KING: We have no evidence on that at all.

MAGGIE ATKINSON: It's a school by school thing.

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SUSAN MORRIS KING: The evidence that we really have is on school by school and on the groups that we've looked at such as those two contrasting groups and the exclusions of children aged four to seven, but in terms of types, no nothing on that.

MAGGIE ATKINSON: Okay.

JOHN CONNOLLY: Just for clarity, is what you're saying that there is no evidence or that you didn't collect and therefore you can't say either way.

SUSAN MORRIS KING: We don't collect it. That's ... we don't collect, as you know, data on exclusions. That's the DfE, so we don't have any evidence, any survey reports or anything else.

JOHN CONNOLLY: So, it would be about working with the department then.

SUSAN MORRIS KING: Yes, precisely.

JOHN CONNOLLY: Okay, thank you for that.

SUSAN MORRIS KING: They do collect, the department do collect evidence as you know, so if you...

JOHN CONNOLLY: Thank you.

SUSAN MORRIS KING: You asked will the new inspection framework and exemptions from inspection of different types of school allow us to identify schools which may be over reliant on exclusions or which exclude unfairly. The exclude unfairly, that is something that we couldn't get from data. We couldn't get really from data. You could get disproportionality and unfairness is not something that one could unpick from data, but exclusions data has just this week, and I've brought you an example if you would find it helpful, been included in the new Raiseonline. Previously, that's been something that we would expect a school to provide through their SEF, their self-evaluation form, which no longer exists. It's now in Raiseonline and it includes exclusion incidents as a figure compared to national, pupils with one or more fixed term exclusions, permanent

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exclusions and breakdowns by group, so the groups are free school meals, special educational needs and disability, ethnicity ... I'm just going to check. Yes, those groups and Ofsted does intend to use that data in risk assessments from next year. The current risk assessments are already underway, but you will be aware that we use risk assessments to decide whether schools that are good or outstanding need an inspection. We do intend to consider how this will be built into that risk assessment.

JANET MOKADES: So, for instance, a disproportionate number of exclusions in an outstanding school could theoretically trigger an inspection.

SUSAN MORRIS KING: The discussion about what the trigger would be and what the threshold would be to trigger an inspection hasn't been decided, but that data will be available to the people doing the risk assessment, and how that will be used and in what way is currently under discussion, but the data now exists and is published for schools, therefore, they will have access to that material when doing risk assessments.

JANET MOKADES: That's quite an interesting theoretical possibility isn't it? I mean, we don't know at the moment whether it is the case ... it's just occurred to me in the light of what ... that there are some outstanding good schools who have disproportionate numbers of permanent or of particular groups.

SUSAN MORRIS KING: I think it's fair to say that between a school being inspected and judged to be good or outstanding, and being due for inspection again, things can change and this is where this data can be very useful as set alongside all the academic data, the progress data and the attainment data that we currently use, this will be able to be part of that picture now.

JANET MOKADES: Good.

MAGGIE ATKINSON: Okay onward.

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SUSAN MORRIS KING: So, you've asked about principal recommendations for the enquiry. We've obviously ... Ofsted has made many recommendations in the reports and I think it may be useful to consider those reports that I've mentioned already and I would particularly draw your attention to two, one of which is the one about the exclusion of children aged four to seven and the other is about alternative provision because although that wasn't specifically about exclusion, it is important so far as what we said in that report which is that sometimes where schools are using alternative provision to prevent exclusion, there are issues around the regulation and inspection and monitoring of some of that provision, the way in which some schools and pupils use it, and I think all those recommendations remain very pertinent, although I'm also aware that they're being used ... they're being taken seriously by DfE and are being used currently to help shape some of their work to move things forward.

There are... you asked the question about use of data and different types of schools, and what knowledge there is around from exclusions from different types of schools, different age groups, and we did mention in the exclusion of children aged four to seven that there are, or there were at that time, some weaknesses in the way in which data was collected and used to challenge schools and we did recommend at the time that the then DCSF should analyse exclusions data annually on a school by school basis, and use this information to question local authorities about the challenge to and support for the primary schools with the highest numbers of exclusions. Now, to make that up to date, that would also be their own direct challenge because so many schools are becoming academies, so that centralised role in terms of using the data collected to challenge where we know that schools use exclusions very differently.

This may not be pertinent to your enquiry, but we did also recommend ... we found a lot of young children with severe mental health ... with mental health difficulties who

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have suffered extreme trauma such as asylum seekers and some behaviour that schools were finding really challenging to manage and we did then recommend that the department investigated the availability of mental health support for young children who have suffered extreme trauma.

JOHN CONNOLLY: You've got five minutes left.

MAGGIE ATKINSON: I told you he'd keep us to time.

SUSAN MORRIS KING: We also recommended, relating to data, that also local authorities, and again, this would now be the department themselves in place of local authorities for academies, should be analysing closely the exclusions of young children in particular and challenging and supporting all schools that are excluding children of this age.

Our recommendation for schools was to minimise the exclusion of young children by developing a range of strategies to manage behaviour from low level disruption to challenging behaviour.

I won't go through the recommendations on the alternative provision review because you've got those and I do think that they ... because that's such a new report, they remain very pertinent and might be worth you considering.

MAGGIE ATKINSON: It is very timely.

SUSAN MORRIS KING: Alongside the recommendations.

MAGGIE ATKINSON: Panel members, I don't know whether you've got questions that you want to ask Susan? Robin.

ROBIN RICHARDSON: Perhaps, the first question I ought perhaps to know the answer to already, and maybe everybody else, and I apologise for taking up your time, but it's the difference between the current system and the new system starting on 1st January 2012 with regard to looking at fixed term and permanent exclusions and disproportionality.

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They're the particular groups. Now, is that something you're already doing or will not do until January 2012.

SUSAN MORRIS KING: No, it is something that we are already doing, but the difference between the current framework and the new framework is that we currently look at behaviour on the two days of the inspection and over time, but in the new framework, there's a much greater emphasis on looking at what behaviour is typically like and it says in the evaluation schedule very, very clearly, 'Judgments on behaviour and safety must not be made solely on the basis of what is seen during the inspection. Inspectors must take into account a range of evidence to judge behaviour and safety over an extended period, and should consider,' and the fixed term exclusions and permanent exclusions comes under that list. It's about the emphasis.

ROBIN RICHARDSON: The disproportionality. The bit you quoted wasn't about that.

SUSAN MORRIS KING: The disproportionality ... what I quoted there is from our current guidance, our current guidance on behaviour, and similar guidance will be given to inspectors in January.

ROBIN RICHARDSON: So, there won't be any change with regard to disproportionality in your approach.

SUSAN MORRIS KING: We already guide inspectors in our supplementary guidance to look at disproportionality and we will continue to do so.

ROBIN RICHARDSON: Have you ... you've mentioned various reports and I assume we've got the bibliography with the references and so on. Has there been a report on disproportionality or disproportionalities and if ... and will there be another? Have you got another stance?

SUSAN MORRIS KING: We did a survey into the exclusion of black boys in particular and we presented that in terms of good practice case studies. We haven't specifically talked about

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disproportionality in a report. It threads through quite a lot of reports, for example, the special educational needs and disability review which was a very big report. We don't have plans for one at the moment.

ROBIN RICHARDSON: So, nothing on low income families and ...

SUSAN MORRIS KING: Oh we have, and we've certainly published reports on disaffected pupils. We've published a report on white boys, not specifically on exclusion but in terms of achievement and under achievement into which exclusions would be built.

JANET MOKADES: I was just thinking about what Sue was saying. I mean, those aspects that Robin's picking out would be common to many of the groups that you've done the reports on, so we know.

SUSAN MORRIS KING: Yes.

JANET MOKADES: Free school meals, SEN, ethnicity or quite often now white boys. They come as a package, really don't they?

SUSAN MORRIS KING: Yes sometimes in terms of exclusions.

JANET MOKADES: Sadly.

SUSAN MORRIS KING: Yes, and there are very common threads and the threads in the reports that I've mentioned and kept coming back to, I've mentioned quite a number, and the key threads in terms of what works are clear and they are common throughout. I would just, at the moment, we're just writing one about bullying as well which we're about to publish and there will be some common threads again running through.

JANET MOKADES: When is that due because that's ...

SUSAN MORRIS KING: I think it's due for publication at the end of April to early May.

[Crosstalk]

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MAGGIE ATKINSON: Susan, we're out of time but thank you very much. You know exactly how to contact us and if there are things that you want to continue to ping in our direction, please do so.

SUSAN MORRIS KING: Thank you.

MAGGIE ATKINSON: Thank you for coming and [Paul] I hope that's been useful for you to sit in and listen to. Thank you very much.

SUSAN MORRIS KING: We'll do as Janet's asked on the any further evidence on illegal exclusions.

MAGGIE ATKINSON: We'd be grateful. That would be terrific. This is starting to coalesce. Thank you very much.

SUSAN MORRIS KING: Thank you.

[End of hearing]

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OFFICE OF THE CHILDREN'S COMMISSIONER
SCHOOL EXCLUSION INQUIRY

At

Meeting Room 8
33 Greycoat Street
SW1P 2QF

On

9th December 2011

Present

Dr Maggie Atkinson – Children's Commissioner

Mr Robin Richardson – Education Consultant

Mrs Janet Mokades – Schools Adjudicator

Mr John Connolly – Policy Director

Interviewee

Dr Jane Martin

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MAGGIE ATKINSON: We'll give you a minute to get yourself settled, Jane, and then we'll do some introductions. Okay. Thank you very much for agreeing to come and talk to us, and thank you very much for your submission in early October to the evidence call. You've met me before. You've met John before. I know we've had telephone conversations. Your office will have been in touch with Del, who's our administrator. Sitting over there is Lisa White who's our director of communications and participation, and over here is Rhodri who's our... we're doing absolutely verbatim transcription of these sessions and they are on the record and attributable unless you say, 'I need to make this comment off the record', at which point, we will allow you to make that comment off that record because we'd rather have the evidence that we can then think about but neither attribute nor necessarily quote in the final report.

On my left and on my right are two Panel members.

JANET MOKADES: Janet Mokades, schools adjudicator and former HMI.

MAGGIE ATKINSON: Who has to leave her phone switched on because she's the Chair of an LSC board with a very difficult issue at the moment and it may ring, so we apologise if it does.

ROBIN RICHARDSON: Robin Richardson, educational consultant, particular interest in equality matters.

MAGGIE ATKINSON: Jane, we sent you kind of six bullet points which you probably have in front of you. What we've done in these sessions is instead of playing head tennis where we ask a question, you answer it and then we ask another one, people have tended to use those bullet points as the framework for what they

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wanted to say and John will keep us to time and stop us at two, but within that period of time, unless we interject and go, 'That's really interesting,' you are talking to us and should feel free to do so. We are in your hands.

DR JANE MARTIN: Well, thank you very much and thanks, Maggie, for the opportunity to come and be part of what is a very important piece of work. I obviously will be giving a very particular perspective, that of the local government ombudsman, so you'll understand that it is quite different from someone who is, shall I say, working in a schools setting.

Perhaps I should just also by way of introduction say that I am one of two local government ombudsmen. My colleague, Anne Seex, and I share the responsibility for local authorities across England, and the Local Government Ombudsman Service was set up in 1974, so we have quite some experience of dealing with matters where the local authority has duties and responsibilities in relation to education. You'll know better than anybody that has changed quite a lot over that period, but we've seen it, not myself personally, but we've seen it through that process, and that's really the way we come at things, which is looking to see that due process and administrative justice has been seen to be served in relation to the local authority's duties, commissioning and provision etc, and you will then know that that is very much looking at the role of special educational needs, looked after children and those who are the most vulnerable families in our society.

So, if I may I will address the questions that you've put and welcome any comments as we go through.

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You first said that you were interested in the Ombudsman and any evidence we have regarding the use of illegal informal exclusions by schools and I need to start by saying, as I've already intimated, that the LGO has had concerns over the years about the use of unofficial exclusions within schools, but the Local Government Act 1974, our founding legislation, prevents investigation of any such complaint when it's within the school, although that has been amended and I'll say something about that in a moment.

So, we've had no statutory powers to intervene and investigate in those matters as such and decisions outlining the jurisdictional issues that apply in such circumstances do get sent to the relevant local authority from time to time when dealing with related matters, but we have no means of tracking this information or following it up.

You may be aware that the Apprenticeship Skills Children and Learning Act 2009 gave us extended jurisdiction as of April 2010 to consider complaints in relation to the internal management of schools, but that was only across 14 local authorities and the current government has decided to repeal that, and so, as per the Educational Bill – now Act – we are in a transitional phase and those powers will be taken off us as a result of that Act and I may come back to that during the course of my statement.

So, it's just worth, for you to note that for just over a year., we have had some responsibility for these matters in relation to, as I say, schools in 14 local authority areas, so the complaint numbers haven't been particularly high, and I wouldn't want to mislead as to the basis for the evidence or anything I'm going

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to say about that, but we can see from the work that we've done with schools over this period that whilst the intention behind unofficial exclusions is well meaning in many cases, schools often attempt to act in what they perceive to be the best interest of the child in avoiding an official exclusion appearing on the records, but the effect of any such action is to prevent the child accessing full time education as per their entitlement, isolating them from their peer group, and removing any appeal rights available to them so it is a serious matter, and I would like to give you one example which I think makes the case in relation to schools.

This is in relation to a six-year-old autistic child whose difficult and challenging behaviour resulted in a number of exclusions which were not recorded as such on the attendance register, and were therefore considered unofficial by my investigation into this case.

The situation here gradually deteriorated with the school actually having to call the police to help manage the child's behaviour, so there clearly were some serious issues here, but the school did not first notify the parents that they were going to do so and the parents were requested on a number of occasions to keep the child at home due to the problems staff were having in managing the child's needs.

Ultimately, the school requested a statutory assessment of the child's needs, which they probably should have done a little earlier, and in looking at this complaint, we have recommended a revision of policies and procedure in relation to behaviour management, recording exclusions and ensuring suitable

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alternative education is provided during any temporary official exclusion. I think that makes the point about some of the issues we deal with.

In relation to these informal exclusions, there often are links to special educational needs and a decision to unofficially exclude can often result from the difficulties, as I've just said, involved in managing challenging behaviour.

We accept and appreciate that schools are often placed in very difficult circumstances in balancing the needs of one particular child with those of the wider school population, but unofficial exclusions in our view simply hide the problem and offer no practical solution to the issue.

It should also be noted and we've seen this in some complaints, that parents might take the child out of school because they have concerns about the environment and there can then be issues about whether that was a voluntary act or not and there are often issues about the suitability of the school's special educational needs provision as well, and so we recognise that these are difficult circumstances and that both schools and local authorities very much have to weigh things in the balance.

Just on the Apprenticeship Skills Children and Learning Act – that's quite a mouthful – that has, as I said, now been repealed, so we will be unable to consider any further complaints about the internal management of schools relating to unofficial exclusions. That opportunity has now been lost to us. Parents will still be able to complain to the governing body of the school and then will be able to go to the Secretary of State if they're dissatisfied with the school's final response, but historically this has not resulted in positive

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outcomes for complainants and indeed, an evaluation that the DfE commissioned towards the end of the period of our trial period outlined the difficulties parents had in assessing this complaint route and getting redress, so to conclude on that matter, we are concerned, of course, that similar issues may apply in the future with the loss of the LGO jurisdiction.

On official exclusions though, I'd like to sum up with this point because the key issue for us is that informal exclusions, whether or not we are in a position to investigate them in the school, set in train a series of events, which then do come to us as complaints when there's been a lack of alternative provision by the local authority and recently, we produced a focus report, and I know you've had a chance to see a copy of that, and you will no doubt pick up on some of the examples we give there, but I think this is an important point, because what may seem like the right decision at the beginning of a course of events, can turn out to be almost catastrophically difficult down the track, and if I may, I will just quote one of the examples from our focus report.

This is a story about – we called it Molly's story, not her real name, but the point here is that if a council becomes aware that a child has been unofficially excluded from their school, educational welfare officers should raise this with the school and they should point out that informal or unofficial exclusions are illegal.

Unofficial exclusions are usually not properly recorded and therefore, as I've said, they mask the problem so just to give you this story, Molly was a seven-year-old girl who lives with her twin sister and her father, who was a

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single parent. Both children had challenging behaviour which meant they were disruptive in class and physically violent to other pupils and school staff. They attended a mainstream school where a special class had been created to meet their needs and the needs of two other pupils, but the two children continued to have difficulties in class and in July, the council offered Molly's sister a place in the specialist unit at a new school which their father was pleased to accept.

Molly returned to the mainstream school after the summer holidays in September. Her challenging behaviour continued to cause difficulties and this resulted in her being excluded several times in the autumn term. The school was concerned that Molly's behaviour put her at risk of being permanently excluded from the school and in October, she was excluded again just for five days. The council was then told about this and Molly did not return to the school; after the five days, her exclusion was extended unofficially and the formal procedures were not followed. Now, this is clearly a classic imbroglio with, no doubt, a parent concerned about the right provision, making sure there was proper communication between the school and the council. In this case, Molly remained out of school from October until the following May when the council found her a place in another school and in investigating this complaint, we found the council had taken too long to find a suitable school. They did make some provision for her, but she was actually out of school for seven months, and so we asked the council to pay Molly's father £250 in recognition of the distress caused to him and we also asked the council to provide educational resources to the value of £500 to help Molly catch up with what she had missed. We also

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asked the council to review its procedure, to take account of the problems caused.

That's in our focus report and I think it helps make the case that these issues can cause significant problems down the line.

You also asked me to consider any evidence that I might have in relation to the effectiveness of internal and independent appeal systems for exclusions, so I need to begin by pointing out our jurisdiction which is that under the 1974 Act, the LGO has been able to consider the role of the independent appeal panel in relation to permanent exclusion, so we have some good experience of this, but our jurisdiction is linked. We are restricted, in fact, to considering administrative process rather than the merits of a decision, so we never challenge unreasonable professional judgment. We will not substitute our decision for the decision of the panel and sometimes, parents find that difficult to accept, but what we do do is that we look at the process that's been followed and if we find fault, we will ask for the process to be re-run and we'll ask for the appeal hearing to be held again.

We do find flaws in the process by which some Independent Appeal Panels reach a decision. These are typically where the panel members cannot demonstrate that they are sufficiently independent or their information has not been appropriately circulated prior to the panel's hearing. In such circumstances, as I've said, we would recommend a new panel with fresh members to be convened to rehear the appeal and although we don't have the power to enforce our decisions, our recommendations are not binding, we have

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very high compliance rate almost 100% compliance with all our recommendations and this would be no different. So when we do find fault in the process we can put things right.

Parents can also raise issues with the LGO when the appeal panel has upheld the appeal, but has not recommended reinstatement of the child. Again we are only able to consider process of such decisions which often comes down to professional judgment, and as I've said, we would not question that unless it seemed to be wholly unreasonable.

I've looked back at some of our recent statistics and it looks like that in relation to independent appeal panels, we are satisfied with due process in around 60% of cases and in 20%, we usually get what we call a local settlement, i.e. matters are sorted out as part of our investigation, so that might give us some comfort because that does show that it's a small number where we find fault.

We have over the years, of course, done a lot with local authorities to help to improve the way in which appeals panels understand their role.

In relation to temporary appeals, as I've said, we are limited in what we can do and I can only quote from the limited experience we've had with the 14 local authorities in the recent year, but we have experienced poor practice in a number of complaints where temporary exclusions and appeal processes within the school have not, for example, taken witness statements properly where they have perhaps been unsigned and undated. We've also raised concerns about the manner in which children have been interviewed when facing serious

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disciplinary matters and have made recommendations that children be appropriately supported prior to any formal interview.

We've noted a number of examples where children have been intimidated by the methods used to establish facts, and as a result, the conclusions reached can be called into question.

The injustice in such circumstances can be considerable if a child is unjustly or inappropriately excluded and has this on their school record, but as I say, we are losing that element of our jurisdiction in the future.

Finally, on this particular point, I would again return to the question of alternative provision and we have more information on that particular point, and I would say that in around 25% of the cases, we find fault with councils in relation to the way in which they have not provided alternative provision following an exclusion and I think again here, I would just repeat the point I made earlier which is our concern is that any internal or independent appeal system which hasn't dealt appropriately with exclusions can set in train a course of events which are not desirable.

MAGGIE ATKINSON: Can I just interject at that point? During our fieldwork, we've met members of a couple of independent appeals panels in different settings in England and you'll know that under the Act that gained royal assent a few weeks ago, there is an amendment to the ways in which appeals will be allowed to work in that there will still be panel type arrangements, but what one panel member described to us as losing one of the three legs on the stool comes into effect. They can uphold the exclusion. They can say it's not upheld, but we can

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or we can't suggest that this child goes back to school, depending on how badly the relationship's broken down. What they can't now do is direct to reinstate.

DR JANE MARTIN: That's right.

MAGGIE ATKINSON: They can strongly advise ...

DR JANE MARTIN: This is the review panel process, isn't it, rather than an appeal?

MAGGIE ATKINSON: Yes.

DR JANE MARTIN: Yes, yes.

MAGGIE ATKINSON: They can strongly advise, the governing body and the head teacher, to re-examine the case and in both cases in two very different places in England and two very different types of character and personality sitting on the panel, they are aghast that that third leg has been taken away from them and one of them went so far as to say, 'I don't see why I should continue to be a member of any such organisation when it is toothless.'

I don't know whether the Ombudsman would have a view about that, particularly, as you've just described, you're also about to lose one of the powers that could have been a point of recourse. I don't know whether you've got reflections on that.

DR JANE MARTIN: Well, I do. I mean, it is difficult of course to comment in detail until we see the impact of the changes, so I haven't got any evidence, but the loss of the independent appeal panel and replacement by a review panel is a possible concern, although as I understand it, some protection will be offered, but if the panel considers the decision to exclude is flawed, as you just said, it can recommend that the governors reconsider the permanent exclusion. If it

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considers the decision is flawed on judicial review principles the panel can quash the original decision as I understand it, and direct the governors to reconsider.

Now, the LGO will still be able to consider complaints relating to the review panel, but only in relation to correct administrative process, so as things stand at the moment, although, as you rightly say, the panel has been replaced by a review panel and as you pointed out, their jurisdiction has changed, at least there is still that route, unless something else changes, for a complaint to come through to us, and we can take a look at how the review panel has dealt with the process, but it is, keeping us, shall we say, at arms' length from the real issue. I mean, our role is not to act as an appeals mechanism as such and you understand that. We are about administrative justice, and so to that extent, it still fits with the kind of role we would expect to play. But I think the issue here is where is there a proper appeal mechanism and that's the worry because if it isn't through the review panel and through the LGO, then it seems that there isn't one.

MAGGIE ATKINSON: Unless you have the wherewithal to take it through the courts.

DR JANE MARTIN: Indeed, of course, indeed, indeed, but in the normal course of events ... I normally expect and would advise that any redress including the actual appeal itself should be very accessible and easy to use by parents and families and going through the courts, generally speaking, is not that route. So, I think that's all I want to say at this point that, you know, there is certainly concern. The other thing I want to say is that the number of complaints that come through to the LGO means that we have a picture across England. That's

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our jurisdiction, and therefore we are in a position to draw on a much wider pool of evidence to be able to reflect back to the sector, to schools, to the department how complaints are being handled and what the impact of those are. If complaints are not allowed to flow through to a national independent body, my concern is that you don't get the full picture and that therefore, we're not learning about good or bad practice.

MAGGIE ATKINSON: Thank you. Onward.

DR JANE MARTIN: Well, you asked me to reflect on whether particular types of schools gave cause for concern and I have to explain that we anonymise all our complaints so I can't give you names or shed much light on that because of the way in which we look at our complaints and gather our empirical data, so I'm not going to say anything categorical about types of school now, but clearly it is the case that schools respond differently and some schools are more receptive to complaints about exclusion and others are not. We have seen examples of complainants who experienced difficulties in accessing complaints procedures and of staff and governors having a lack of understanding about their roles and responsibilities, so I think all I would say is that there is clearly spectrum here, and I can't draw any conclusions as to what that stems from, but clearly it is the case that parents have had limited redress once they have exhausted the school system, and so, there is an issue there for us.

As I said before, we've spent some time in the last 12 months or so, having had this window of opportunity to deliver briefings on good complaint handling in schools, to help to work with head teachers and governors and we've found

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that to be very well received and hopefully there will be ways in which that can continue.

I think also, Maggie... I mean your intervention before was about the changes to the 2011 Act and the evidence I gave you about the independent appeals panel, I think really covers that off, because that's the main change for us and the issues really relate to that.

In terms of principal recommendations that I'd like to make to the inquiry then, I think the bottom line, the main principle here is that we must make sure that there continues to be clear and accessible rights of redress within the school to the governing body and to an independent external body for parents and families who can deal swiftly in looking at the school and to reconsider decisions asking the school to reconsider and give good reasons for its decision. I mean, whether it's a temporary exclusion or whether it's a permanent exclusion, the point here that in particular is the child has been excluded. His or her family and all of those concerned with their welfare need to be able to understand why the school has made a decision and on what grounds. I mean, frankly, it's a matter of natural justice.

It has never been the position of the Ombudsman for us to substitute our decision for a body which has the power to make that decision and I completely understand that in the case of schools, and for headteachers and governing bodies, that they wish to preserve the appropriate exercise of their professional judgment and that indeed is the context in which we have always worked, but there is, as I say, a matter of natural justice here, and it doesn't seem to me to be

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helpful in cases of mal-administration. Let's call a spade a spade, for misdemeanours, bad practice, even shortcomings not to be surfaced and to be dealt with in a public way, that really is the concern and I hope that this enquiry will address that.

In the last year, having been looking at schools, we have worked closely with Ofsted and we've alerted them to what we found in our complaints, and as the Ombudsman we have that opportunity to work in an appropriate way with regulators, with Ofsted, and we have indeed raised questions about the use of unofficial exclusions and the methods used by schools to disguise or hide the fact that this is occurring. Again, we understand that it is absolutely the role of the appropriate regulator to look at systemic issues and to work with schools and others in their jurisdiction, so I think what I'm trying to point up here is that we need a system-wide response to these matters and what we must not do is cut off the proper and appropriate route for complaints.

MAGGIE ATKINSON: And will the LGO retain its place in that proper route and proper system for schools that are free schools and various sorts of academy and so on.

DR JANE MARTIN: Our jurisdiction is, as I say, first and foremost for local authorities so that of course will continue. Secondly, in relation to review panels, we are in discussion with the department (Department for Education) at the moment about our jurisdiction in relation to academies and free schools, because it has come to our joint attention, perhaps a little late in the day, that these changes are having

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an impact on the way in which we carry out our work so we're in discussion about that at the moment.

I think finally you were interested in views about the Equality Act duty and the impact of that. I think here again, I couldn't say that I'm in a position to provide a definitive review in relation to these experiences, given our brief experience directly with schools. However, I would say that we see a lot of examples of management of special educational needs complaints. Some of our most complex cases are about special educational needs because of the role of the local authority in relation to that and that would indicate that there's still some way to go before schools can demonstrate that they fully understand and are able to comply with their duties under the Equality Act, so I would just raise a concern about that. We've dealt with a number of complaints, for example, of alleged racial discrimination. Now, that's not necessarily a matter for us, but we can see in the complaint in the round that some of these issues do still come up and we would anticipate that a different picture may well emerge, so I wouldn't say any more than that other than just to reiterate the point. From the point of view of the Ombudsman, we always expect decisions by the local authority, and by the school in relation to these matters to be taken properly, and what that means is that due consideration is given to the decision and that would of course include an equalities duty and we would always expect to see that; proper consideration having been given, properly documented, properly communicated with good reasons and I think that's probably the right place for the Ombudsman to stop.

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MAGGIE ATKINSON: I don't know whether panel members have got angles or questions or... John do you want to say anything?

JOHN CONNOLLY: Just on that final point, you're saying basically one of the things you're looking at is due process [inaudible]. Looking back on what you said earlier about the cases that have come to you under those 14 local authorities, are there any lessons learned from those as to whether appropriate weight is being given?

DR JANE MARTIN: I'm not really able to give you a fuller answer on that because I'd need to have a look at those complaints and to be able to pull out the issues, so I'd be very happy to provide you with further evidence on that.

MAGGIE ATKINSON: That would be very useful. That would be very useful. Janet? Robin.

Thank you again. I'll say to you what I've said to all the witnesses who've talked to us today so far, which is if, as you're on your way back to wherever it is you're going for the rest of the afternoon, you think, 'I should have said', you've got John's detail, you've got the inquiry inbox details and we won't close the books until partway through January when I will have to stop tinkering and say well let's just think about this bit because we are going to have to write. What we will do with what you've said to us this afternoon is to get into your hands an unedited transcript and in much the same way as a site meeting would, so that you can rule out language which doesn't say what you thought you meant and answers that – you can also look at accuracy and get it back to us so that we can actually create a series of annexes to the report when it goes out in March

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and if when you see it, there are things which you think that should have been an off-the-record comment, we will take that at that point as well if that's what we need to do, but that sort of analysis, particularly on the policy's duty, I think would be very useful for us as supplementary information. That would be really useful, thank you.

DR JANE MARTIN: And perhaps, I should just say if there is any further information that we can usefully let you have about our complaints, I'm very happy to do that. I mean, obviously our investigations are private and we can anonymise anything that you wish to look at, but you know, we would have full statements and reasons of all complaints, but particularly the ones that you'd be interested in so we will be very happy to have a look at those and see if there's any further information we can let you have.

MAGGIE ATKINSON: Thank you. Okay. Thank you very much.

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OFFICE OF THE CHILDREN'S COMMISSIONER
SCHOOL EXCLUSION INQUIRY

At

Meeting Room 8
33 Greycoat Street
SW1P 2QF

On

9th December 2011

Present

Dr Maggie Atkinson – Children's Commissioner
Mr Robin Richardson – Education Consultant
Mrs Janet Mokades – Schools Adjudicator
Mr John Connolly – Policy Director
Ms Delyth Johnson – Inquiry Assistant

Interviewee

Julian Lee – Head of alternative provision and PRUs at Waltham Forest, ADCS

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MAGGIE ATKINSON: Thank you very much for coming to see us.

JULIAN LEE: My pleasure.

MAGGIE ATKINSON: We'll do some introduction and I'll do some introductory comments, if that's alright with you.

JULIAN LEE: Yes, that's alright.

MAGGIE ATKINSON: Of course, you know what you're coming to and what we are going to do with what you say. Sitting at the back there and observing and taking notes is Lisa Whyte, who is my Director of Communications and Participation here at the Office of the Children's Commissioner. I'm Maggie Atkinson, Children's Commissioner for England. We have Rhodri who is our verbatim transcriber and stenographer, for reasons I will talk about in a minute. We then have two panel members.

JANET MOKADES: Janet Mokades, former HMI and schools adjudicator.

JULIAN LEE: Okay.

ROBIN RICHARDSON: Robin Richardson, educational consultant.

JULIAN LEE: Hello Robin.

JOHN CONNOLLY: I'm John Connolly; I'm the principal policy adviser on education here.

DELYTH JOHNSON: I'm Delyth Johnson.

JULIAN LEE: We've just met.

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DELYTH JOHNSON: Yes.

MAGGIE ATKINSON: And you're here to represent ADCS, as you know.

JULIAN LEE: Yes, yes.

MAGGIE ATKINSON: I will be talking to [inaudible] about meeting with the Board of Directors, because I feel as I need to get the statutory post holders' line as well the person who is leading the services, very importantly, from the front. We've been out a great deal, as you'll know, across the country, into schools, into local authorities, rural, urban, you name it. And we have met heads, governors, parents, pupils, parent partnership officers, voluntary providers, PRU heads and all the rest of it, union leaders and so on. And all of the evidence they've given us will be presented, where we present it unattributed, unnamed. We will go as far as to say, you know, 'a senior leader of a teachers' association', or 'a leading governor', or 'a child aged 14, male, in this sort of school'.

JULIAN LEE: Okay.

MAGGIE ATKINSON: These sessions, which are our formal evidence sessions – we've got a big swath today and another on Monday – are fully recorded. You will get a transcript, an unedited transcript, back, where you can check for factual accuracy and infelicity of language – you know, you meant something but the way it came out meant something else.

JULIAN LEE: Yes, that's handy that.

MAGGIE ATKINSON: Yes indeed, and we would want that back and it would be published as an annex.

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JULIAN LEE: Okay.

MAGGIE ATKINSON: And these are fully on the record unless you say part the way through,

‘This has to be an off-the-record statement.’

JULIAN LEE: Okay.

MAGGIE ATKINSON: At which point we will respect that. And they are attributed. So just so you know what you’ve come into, that’s where we’re at. We will get those unedited transcripts back to you in pretty short order. We absolutely, finally close our calls for additional and supplementary evidence in January. We publish in March; it will be a parliamentary launch about 10 days before Easter recess, mainly because there is so much data.

JULIAN LEE: Yes, of course.

MAGGIE ATKINSON: But you will know that because you run the services concerned.

JULIAN LEE: Indeed.

MAGGIE ATKINSON: Now what we’ve done with all our witnesses today is to send out the bullet points of the questions and areas for reflection, and we haven’t played head tennis, we haven’t gone, ‘So we’re now going to ask you this one.’

JULIAN LEE: Okay.

MAGGIE ATKINSON: We allow people to use those bullet points to frame their thinking, which is why you’ve had them in advance, and to use them almost as a framework for a script. And

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you find we will interject when you say something that is either desperately interesting or that's desperately confusing and we need to know what you mean.

JULIAN LEE: Okay.

MAGGIE ATKINSON: And it could be any of the panel or just John, who's the principal policy adviser and leading for me on managing the inquiry and therefore has seen every scrap of data; he may have some questions that we also need to ask.

JULIAN LEE: Okay fine.

MAGGIE ATKINSON: But apart from that, we are in your hands, and John will keep us to time. So he will about five minutes before the end go, 'You've got five minutes.'

JULIAN LEE: Okay.

MAGGIE ATKINSON: Not to make you jump.

JULIAN LEE: No that's fine. Can I just check a couple of points before we continue?

MAGGIE ATKINSON: Yes, please do.

JULIAN LEE: I found out about this yesterday; in fact earlier in the week it was put my way. I've had several things to attend to this week of a personal nature which meant I couldn't actually pick up emails. And I found out yesterday that it was indeed me that was going to be representing the directors today, so I've had an opportunity last night to have a quick look at these notes. The territory is familiar and so I'm not bothered about the content issues, but I wanted just to clarify that what I say today is what I think and feel about the

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situation with regards to exclusions nationally and all of the issues around the inclusion of young people. It doesn't necessarily reflect the disposition of Children's Services nationally; I haven't had an opportunity to consult with all the director of children's services nationally to see whether or not our views concur. So what I say today has got that caveat on it and I hope that is acceptable with this group.

MAGGIE ATKINSON: Wise for me to insist on going to see the board of directors as well as speaking to you.

JULIAN LEE: Yes, I think so. I think so. Having said that, I don't think anything I say will be unreasonable and certainly not considered an unreasonable proposition or proposal or idea or thought by the directors of children's services.

MAGGIE ATKINSON: Okay. We're in your hands. Thank you for that part of the submission.

JULIAN LEE: Okay. So how does this work? Do you ask me questions or what?

MAGGIE ATKINSON: No.

JULIAN LEE: That's what I'm prepared for.

MAGGIE ATKINSON: If you've got notes, I'm assuming that what you've got – what you've had is the bullet points of questions.

JULIAN LEE: I've got the list of bullet points, yes, yes, yes.

MAGGIE ATKINSON: If you want to use those as a framework to launch off.

JULIAN LEE: Okay.

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MAGGIE ATKINSON: And if we think there is something to clarify...

JULIAN LEE: Okay, alright, so it's not going to be a Q&A; I'm not applying for a job, although it kind of felt a bit like that when I was looking at these last night.

The first prompt which you've given me is about thresholds, and I think it's an interesting question. Coming up on the train at lunchtime today I was prompted to sort of reflect on what you think your tolerance levels are as a group of people with regard to pupil behaviour, and it's an interesting question because when you work in the field of behaviour, when you teach in schools, when you either manage in schools, you are actually responsible for your own behaviour and that has an impact and effect on everybody else's behaviour. Clearly, behaviour is an interactional thing and therefore, when you're thinking about thresholds or common ways in which we respond to behaviour in schools across a single school, you're looking at incredible variables. If any of you have been involved in training and development in secondary schools, you'll know what I'm talking about when you look at trying to moderate behaviour across staff. You get 150 staff together and ask them what their thresholds are with regards to spitting: do they think it is a terrible thing, do they think it is an acceptable thing in certain circumstances on the rugby field or the football field, or is it something which they're ambivalent about? When you ask a cross-section of staff they all feel different things. Everybody has triggers around behaviour.

Now the reason I'm saying this is because it's difficult to get a moderated view across a single school. When you put multiples of schools together, schools in partnerships – and that's certainly going to be one of themes of my discussions with you this afternoon, about schools in partnership – when we put them together, a lot of interesting things can

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start to happen. One of them is that, when schools actually do decide to work collaboratively in a very meaningful way – perhaps we will get a chance to talk about that in a minute – they do start to ask questions about whether or not it's possible to get some kind of moderation of their behaviour as organisations and institutions and that's the threshold opportunity. So any leader or manager in a local authority who has got a collection of schools who are at that point where they can start to think about the moderation of their own behaviour as organisations and setting out thresholds is in a very good place. We are at that place where I work at the moment in Waltham Forest: schools have actually come to me and said, 'Do you think it is possible? Do you think we could agree?' And I will tell you about this wonderful partnership of secondary schools in a little while – I think it is possible.

So the question to you really is it is as long as a piece of string – very, very difficult when you're looking at individual thresholds for behaviour. Organisationally it is possible but you need to have systems in place to make it happen within a school; it is the only way to do it, as far as I'm concerned. Everybody has to sign up to it; it is a democratic decision. When I do it – do you want me to digress or do you want me to just...?

MAGGIE ATKINSON: Keep going.

JULIAN LEE: I'll just tell you a little bit about this – some of the exercises I've done in the past. I worked in the National Strategies previous to coming here, and some of the exercises I do with local authorities in schools would be a moderation session, where the whole school would have to consider what different levels behaviour might look like in terms of a hierarchy of responses. And so we get all the behaviours that you could possibly imagine listed and the school had to debate – all the staff, all the teachers in the school had to debate

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– the behaviours for one or two minutes and decide where they actually went, and it would be a majority decision at the end of the day where the behaviour went in terms of a hierarchy of sanctions. Even though many of the staff in school would find this difficult to accept, basically it was a democratic decision and the schools could then actually move forward and say, ‘As a group we agree that we are going to respond as an organisation like this, like this and like this according to the hierarchies,’ and that works. That certainly works in secondary schools. So what I’m saying is, I suppose, is the only way I can think of doing this across secondary schools is to systematise it.

MAGGIE ATKINSON: It’s interesting; we were part of the group that was there. John was there on Friday night with our – we have a Children’s Advisory Board which is a national body, aged 9 to 18, and they’re from all over the place: very wide range of backgrounds and types of kid. What they were asking for was consistency. Even within their own individual schools they were asking for consistency, and they were certainly asking for consistency if they were being educated in one place for vocational but somewhere else for academic. They were simply asking that adults play the game really.

JULIAN LEE: It is the single most enduring request that I hear and have heard from children my entire teaching career, and I’m one year away from retirement. You know, ‘Treat us consistently.’ Actually they don’t even mind sometimes if we don’t treat them well, as long as we all don’t treat them well in the same way.

MAGGIE ATKINSON: Yes.

JULIAN LEE: Consistency is the main thing. You know we know it as parents; I’m fortunate that both of my parents were consistent with me. If they weren’t, I would have tried to divide

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them because that is the nature of wanting to get one's own way. Kids do it in school all the time; they really appreciate consistency, definitely.

So yes, this is as much about our behaviour as individuals and organisations as it is about children's behaviour. I've always been more interested in how organisations and people behave rather than just children. Behaviour is a consequence, you know – exclusions are a consequence of behaviour, behaviour is a consequence of unmet needs in so many ways. So you know I'm much more interested in interrogating what behaviour is trying to tell me and, again, that doesn't just mean the kids; it means the school, it means the organisation, it means all. So thresholds yes, definitely, definitely possible, but you have got to get the – not you, the schools have to decide that they're going to work together in a collective, and this is one of the themes I really want to persuade you – not that you probably need persuading at all; partnerships of schools is based in the same building here – but, you know, partnerships are key as far as I'm concerned for not only managing exclusions but managing so many different things that aren't quite right in our system at the moment, yes.

MAGGIE ATKINSON: Continue. We're all ears.

JULIAN LEE: Okay, I could talk endlessly but I'm happy to be interrupted otherwise, you know, you'll get bored of the sound of my voice. Okay I'll just reflect a little bit on why I think it's good where I'm currently working. I joined Waltham Forest 20 months ago after spending 3 years in the National Strategies as a senior adviser for London and the South East. I went to Waltham Forest because I was interested in it: multi-racial borough, East End, difficult, many schools in interesting and somewhat challenging circumstances but, you

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know, generally speaking for London, doing okay. The one really, really interesting thing about the borough is the way that these schools decide they want to work together, and they have made a decision. The local authority has been very smart in getting the schools to a position where they can feel they can make decisions collectively. The secondary headteachers arrived at this decision that they were going to collaborate around difficult youngsters well before I arrived, and I'm interested in knowing why that should be. I think adversity has got a lot to do with it. I think when you're working in challenging places, quite often sticking together is a good idea, and if you're a bunch or collective of secondary schools in a very tight locality – in London boroughs, a lot of that – there is an opportunity to share and to participate rather than to feel like you're in competition, and I think this is what has happened in the borough.

Permanent exclusions don't need to happen there anymore. They do occasionally; I mean the last couple of years we've had a handful – no more than four or five over the last few years and then only in extremis. They don't need to happen; all provision in the borough that my services run is preventative, in that the schools work with me to decide what kind of provision they want. If a school said to me, 'Julian, we want provision for youngsters to do' – I don't know – 'underwater basket weaving,' then that is what I provide for them. But they don't say that; they say, 'We want provision for very, very small children that are struggling; we want nurture groups; we want online learning; we want pupil referral units that focus on re-integration, pupil referral units that focus on progression pathways at key stage four.' And so we create the provision with their money because it is their budget, their service, on their behalf.

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So the first thing around putting a partnership in place is to ensure that schools realise that they have the potential to be commissioners of services that they actually want. I mean you go back to a group of secondary heads and you sit around a table with them and you say, 'Look, you know, these are your needs, these are your budgets. We think you might need to spend X on this. Do you want to use us as commissioners for you?' So the role of the local authority changes, you know. I'm not a great believer in local authorities as providers of these kinds of services at all. I am definitely a great believer that schools should commission or get local authority staff to become brokers for the services that they need. And this is an important point which has kind of got a bit lost somehow in government thinking at the moment, particularly with the new agenda around schools becoming far more independent islands of self-accountability. I'll come on to that in a minute. In Waltham Forest they get on very well together; there are robust sessions around the table where children, young people are brought to the table, and this happens I know in other boroughs from my experience.

MAGGIE ATKINSON: Physically?

JULIAN LEE: No, not physically. No because I think it would be difficult for young people if they were put in a position where other people, adults, other agencies and services and schools were discussing their educational future – sometimes in robust and not all together helpful ways – but ultimately with the view that that young person should get the provision which is going to best meet their needs, whether it is another school, whether it's a specialist provision, alternative provision, or college pathway. They are obviously consulted once decisions or options are explored, but that kind of robust decision or discussion would be quite hard to take. I personally, if I was a kid, wouldn't want to sit in on that.

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MAGGIE ATKINSON: So just take me therefore into that bit where they are consulted. Very often if an alternative placement is being considered for a child, that child is already vulnerable, upset, potentially traumatised, as well as presenting very difficult, challenging, troubled and troublesome behaviour.

JULIAN LEE: Yes indeed.

MAGGIE ATKINSON: Are proposed packages put together and the child is approached...?

JULIAN LEE: Yes and the family and the parents and the carers.

MAGGIE ATKINSON: And the child says, 'Why would I want to do that?'

JULIAN LEE: Yes exactly, and if the young person says, 'Why would I want to do that?' we have to go back and think again. Or if they say, 'No, I'm not doing that.' What's the point? I'd only be moved on and excluded again,' we have to look again. This is part of the key...

MAGGIE ATKINSON: So that's the point at which they become co-constructors?

JULIAN LEE: Yes they do indeed, at that point. I think it is really important to acknowledge the fact they are participating in that sense, and they quite often will participate in not only what they say but how they behave. Sometimes we think we have got it right and sometimes they think we've got it right or it's not right, and we can either tell from what they say and how they behave, and if it doesn't look right, we don't permanently exclude from our alternative provision. That is just a nonsense idea, as far as I'm concerned. Even though my PRU heads are allowed to do it, I've told them they can't do it, that's it; it's not going to happen. What we do is we re-refer back to our fair access panel; the fair access panel has to come up

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with a different solution. So no child should get provision which is not the best that we can offer.

Now the question is, is the best we can offer good enough? And I would argue that Pupil Referral Unit provision is never the best that any local authority or collection of schools can offer. Alternative provision isn't necessarily the best; it's about a range of provision. And therefore, the whole business of constructing alternative pathways or opportunities for young people depends upon the willingness of the schools to invest. You have to have a broad spread of provision, so I'm constantly developing options around the broadest spreads of provision.

JANET MOKADES: Can I stop you there for a moment?

JULIAN LEE: Yes, of course.

JANET MOKADES: And ask you, I'm familiar with fair access panels and most authorities do operate them, I know, in the way you describe. The concern I often have about the results of that is around the quality assurance of a plethora of individually focused arrangements, and I wonder what sort of mechanisms you can have for ensuring that it isn't just a caravan on the car park.

JULIAN LEE: Yes exactly.

JANET MOKADES: Or college course that everyone drops out of after eight months and comes out with no qualifications.

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JULIAN LEE: You're absolutely right, you're absolutely right. I mean Pupil Referral Units are quality assured in several ways, obviously, ultimately by Ofsted inspections, and the school improvement services in local authorities are clearly going to be commissioned to provide not only quality assurance but ongoing support and monitoring of what's going on in those types of provisions. I mean I think the weakness area in most local authorities is alternative provision. There is less regulation around AP, and every time I talk to the department about it – and I've talked to some fairly senior people in department about it – I'm still left wondering about what the final destination for alternative provision is going to be. Having said that, in my authority I've got staff whose job it is to do just that. When I arrived in the authority, I commissioned a review, set up a commission – I did it myself with a few other people – a review of all provision: every single provider. I did a full inspection of every provider and came up with some conclusions about those we wanted to keep and those we didn't want to keep. We used the London Quality Assurance Framework for reviewing alternative provision, setting out alongside Ofsted criteria from section five inspections. You can come up with a pretty robust way of making decisions about the effectiveness of alternative provision. As I say, I've got staff; I've got a manager and a deputy to do that. Everything in my organisation is all under one roof as well, so if I need to supplement provision from elsewhere – like if I need to actually provide support to the alternative provision manager or the quality assurance process – I can always draw staff from other parts of the organisation to get that done. Now a structural message here is that organisations need to be under one tent in these kinds of scenarios, to my mind; I've never seen anything work in a disparate way as effectively as it can do under one single budget line with one single big tent.

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MAGGIE ATKINSON: I absolutely see where you're coming from. Some of what we've found in the field work conversations that we've had has left us with a variety of thoughts. The first is about – it's one of the prompts, bullet points – the effects of the now 2011 Education Act, and the diversification of provision now and the funded direct schools and the relationship directly with the Secretary of State. We've had local authorities, especially very big counties where children are scattered in tiny schools all over the place, up the back end of valleys or along a coastal strip, where there is a real sense of fear. And I don't know if that's about liking what you know and knowing what you like, or whether it is a genuine sense of fear that those children will fall through the net as the system diversifies. There is a sense – we are talking to a group of six academy organisations towards the end of this afternoon – no doubt at all that they would talk about, 'It's not a fear and what's wrong with you?' There will be some heads who say the same. We've talked to voluntary organisation-based alternative providers in some places that do a very heavily outsourced model, who don't understand how the local authority can't possibly want to use them. They are based in the community, they are of the same ethnic minority groupings as the children being excluded, they live around the corner, they know about the system: 'What's wrong with you?' And the local authority in the same place saying, 'They don't meet our quality standards, so why would we use them?' And in the meantime, the people who fall through the gaps in the middle of all of what I have just described are the children. And as Children's Commissioner, you'd expect me to ask fairly loaded questions about whether you feel that there is a way through – that we shouldn't be worried about it at all.

JULIAN LEE: Yes, I mean they are huge questions, and they cut to the heart of government thinking at the moment, and I think therein lies the nature of your problem. Now you could

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see it as an opportunity. I personally don't see this Act as an opportunity; I see it as a collection of interesting ideas and a conflation of views, and amendments and changes to existing legislation. I see there are themes emerging there – not only talking about exclusions – there are themes emerging there which are based on ideology which is moving in a different direction. And from my point of view, given the areas of interest that I currently have and speaking for myself on this, I feel there are opportunities there and there are threats and challenges. I think the threats and challenges are pretty much what you've just described about the disaggregation of service areas, the lack of collective accountability and collective responsibility and collaboration, particularly amongst schools. I think the greater diversity of education provision that we get in the country, free schools, are a major cause for concern, because we simply don't know where they're going and what is going to be the impact of free schools on our system. All I can say at the moment is, in the examples that I've seen and that I'm experiencing personally at the moment, that it is possible to have partnerships and collaboration with academies because that is exactly what we're doing at the moment. This is hugely dependent on the way in which the academies are viewed by their neighbours and the schools in their locality and how they're treated by the local authority. So it is possible, but of course, you know, it's a random process this; we can't say for sure that academies are going to join us in our quest to be partners, or indeed contribute to the costs of such provision. Because the basis of all the provision that I run is down to school budgets, it all comes from the DSG (Dedicated Schools Grant). Now academies are separate from that, we have to have separate service agreements with academies.

MAGGIE ATKINSON: At full cost?

JULIAN LEE: Sorry?

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MAGGIE ATKINSON: At full cost?

JULIAN LEE: At full cost recovery, of course, and some academies will eventually balk at that.

So we can see services under threat as a result of the academies agenda. But what can we do? Well we can't reverse the clock; it's not going to happen. Academies – I'm digressing slightly, and I'm not going to be a hostage to fortune given that everything is being recorded on what I say here – but it is true to say, I think, that the prevailing view at the moment is that local authorities equals bad and academies probably equals good. Now that's a very simplistic, boiled down analysis...

MAGGIE ATKINSON: As is its opposite.

JULIAN LEE: Sorry?

MAGGIE ATKINSON: As is its opposite.

JULIAN LEE: Yes, yes, yes indeed, as is its opposite. I'm just thinking about current government policy: you know, the academies and free schools agenda is good, local authorities control is not good, hence local authorities being allowed to consider with their pupil referral units and alternative provision actually considering academy status. Now that's a very, you know, interesting idea. The only message there is surely about disaggregating education services away from local authority control. So you know the politics in this are going to be hugely influential, and I don't see that it is going to be possible to turn them around. My father-in-law used to be senior HMI and he used to say, 'Julian, don't worry so much about the next two or three years; in 20 years it will all come round again anyway.' It always does in this country – it will always come round.

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MAGGIE ATKINSON: That is absolutely true, but the children that go through the system...

JULIAN LEE: I know, but it just popped into my head.

MAGGIE ATKINSON: Indeed, indeed.

JULIAN LEE: Big political question that you asked me there, Maggie, and I don't necessarily have an answer for you on it; I have some views on what might be possible.

MAGGIE ATKINSON: Do talk to us, yes.

JULIAN LEE: Yes, yes it just comes back to this business about partnerships. I think we have to demonstrate to government colleagues and, you know, I think we have to demonstrate to Michael Gove where we can, and through whatever influence we have, what actually works. Now I'm not going to not embrace the academies' agenda – that would be very stupid because it's happening; it's a wave that we've got to ride and will ride – and embrace, in some cases, the same for the other diversification of schools. But my argument is that effective delivery of government policy is done through partnership working, and the sooner that is realised and properly internalised by Gove's department the better. I think it is a really important point.

I could illustrate it quite simply by saying, you know, there are and there have been some misguided views about how schools can manage exclusions, for example. There is a pilot at the moment, a national pilot, which I'm involved in looking at the disbursement of what is currently described as local authority held resources to schools. Now I've actually been at pains to point out to the department that that is just daft; you are devolving resources or delegating resources, money, to schools – it's theirs anyway. It starts as being theirs; we

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can't give, devolve or delegate what's already school-owned money. Schools allow local authorities to use that money to develop provision through a partnership thing called a schools' forum. A schools' forum makes the decision about where money is actually used, and where that is a responsible and responsive relationship, and all information and facts and figures about money are above the table, schools can make decisions on behalf of the kind of provision they want. This makes a huge amount of sense. It flies in the face of early guidance in the White Paper that suggested that schools might actually be able to commission independently of any other schools, alternative providers or PRUs. There is no logic to that, and anybody who has run a school knows you can't commission on a basis of spot purchasing. It just simply doesn't happen. You can't set anything up. So everybody in local authorities, and I can speak for ADCS, knows that individual commissioning by schools of alternative provision or PRUs is an absolute non-starter.

MAGGIE ATKINSON: Will it stop people trying?

JULIAN LEE: I think people will try, Maggie. I think people will definitely try where it's thought to be possible. But there are no economies of scale in there. It's just very, very hard to create provision which is going to be based on a promise of a young person coming to you some time during the course of the year. The simplest solution is for schools to aggregate their resources. I've said this to the department and they say, 'Yes, you're absolutely right, you're absolutely right; putting the money together is definitely the right thing to do.' So you put the money together and you get schools to work in partnership, and when they work in partnership they can decide how it is they want to act as a purchasing organisation – a bloc, if you like. Whether they use local authorities is, in a sense, neither here nor there. Whether they purchase PRUs is neither here nor there. The important thing is that they

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collectively decide how they want to behave as an entity. So the message to you to take back to local authorities, and those ones in particular – local authorities like Kent – which are... You know, they're as big as Belgium: 101 secondary schools, issues on the south coast around Hastings and, you know, absolutely no issues around Tonbridge Wells or whatever, you know. It's a different world from one side of Kent to the other. The only way that Kent can actually thrive in these kinds of situations is to operate more like a group of sub-partnerships. You can't put 101 schools into a partnership; there has to be some kind of a disaggregation of schools at a local level into those partnership groupings. I know from when I worked in the strategies that that was definitely on the agenda for Kent. It's just difficult to actually get that type of thing organised and constructed.

MAGGIE ATKINSON: Does it need an arbiter? Does it need a presence that is not somebody from one of the schools acting as chair and banker?

JULIAN LEE: Yes I think so, yes – sorry to interrupt you – but getting, you know what it's like: you get any more than 12 secondary heads in a room and you've got problems.

MAGGIE ATKINSON: Only 12?

JULIAN LEE: Okay maybe less than 12. Maybe I've been spoilt by my current experiences. But it is difficult and you do need very, very high order chairing and negotiating skills to get secondary heads to agree. But the bottom line is secondary heads will agree on things when they know it is in their interests – we all will. I'm a headteacher; if I see it's in the interests of my service I will agree to it, broadly speaking, you know. So the local authority role here – doesn't have to be a local authority, by the way, you know. It can be anybody that has got expertise in working alongside schools and providing that kind of brokerage function for

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them to get them to work in partnership, to deliver the kinds of services that make sense to them.

MAGGIE ATKINSON: Onward.

JULIAN LEE: Okay.

MAGGIE ATKINSON: I mean there are questions in here about things like whether the current and potential future funding situation for schools is going to threaten that collaboration.

JULIAN LEE: Undoubtedly, absolutely, as funds drop away voluntaries will go with them. I'm noticing it already. This is an interesting point actually, I think. You might not find it interesting but I do. What we want to do all the time – what I want to do all the time – is drive down resources into universal services. It just makes so much sense, because universal provision or the universality – I can't even say it but you know what I mean – universal provision is capable of reacting or acting in a preventative way. It is really possible for that happen. The tip of the pyramid, if you like, the targeted and intensive work that goes on with schools is always by definition going to be reactive. That is what we do: we react to circumstances. Far better to be able to plan your responses to situations than reacting to circumstances, so driving resources down into universal services allows you to become more proactive rather than reactive. Unfortunately, one of the big consequences of cost reduction or income into local authorities means – and into voluntary orgs – means that universality, right across the piece now, is being sacrificed because local authorities can only afford to do targeted and intensive work. Therefore, we're doing everything that senior politicians... I was talking to Iain Duncan Smith about this a couple of weeks ago: dead keen on getting in early, early intervention, particularly around gangs and serious youth

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violence. It's very, very hard to when you're cutting away at those services that provide universal offers[?]. So yes, you know in a very real sense cut backs, financial cut backs to local authority budgets and grant funding streams for voluntary agencies and others, are definitely going to have a very negative impact.

MAGGIE ATKINSON: Will people walk away from the partnership table?

JULIAN LEE: No, not in my mind, and that's a qualified no. I don't think that schools depend upon external agencies, particularly voluntaries, anymore. I think they really appreciate having them, but I don't think it will stop them doing what they want to do, no. It'll modify how they behave, but it won't make them walk away, no. They're not that important compared to the collaboration of the schools, which is more important I feel.

MAGGIE ATKINSON: So, I'm walking us through a particular landscape now.

JULIAN LEE: Alright.

MAGGIE ATKINSON: If resourcing falls and opportunities to intervene fall, you end up with either an increase in exclusions or an increase in the complexity of circumstances that lead to exclusions.

JULIAN LEE: Yes.

MAGGIE ATKINSON: Talk to us a bit about: whether appeals systems work now; whether what's happened in the Year Eleven Act will mean they work less well; how would you improve them? We've had people in today who've said they take forever; what's the point of having them? So just talk to us a bit about the appeals issue.

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JULIAN LEE: Yes, I'm not an exclusions officer but, you know, clearly I've got a view on this.

The current system that we are going to be operating until September, I think, of next year is not perfect by any means at all. But in terms of the power or the ability, if you like, of a parent and a young person to influence the course of direction of an exclusion, as far as that's concerned by September of next year that will pretty much be eroded away. We're not looking at an appeals' panel, you know. It's all in the language. It's no longer an appeal; it is now a review. You know, 'We'll have a look at it again, but we're not necessarily going to change our minds.' You know, it's only in exceptional circumstances – if procedural stuff has not been followed properly – that the review panel can direct a school to reverse its decision. So actually, I mean it's a simple answer to your question: I think what we've got at the moment isn't perfect by any stretch of the imagination, but it certainly allows parents and children and young people a greater say with regards to being reintegrated or re-accepted back into schools than current legislation in the Act will allow for.

MAGGIE ATKINSON: Right.

JULIAN LEE: Yes, and I don't think there's anything we can do about that, Maggie, I'm afraid.

MAGGIE ATKINSON: So what about the issue of youngsters where, because of the system, the means, the mode of exclusion has been informal and therefore illegal? There is no right of appeal like there is no right of appeal in a managed move.

JULIAN LEE: Yes, I don't actually think – I always get a bit confused about illegal or unlawful exclusions. I mean they are ultimately but more importantly they're probably immoral. The way they're actually done, I think it is an immorality.

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MAGGIE ATKINSON: Do they happen then?

JULIAN LEE: Oh yes, of course they do, of course they do.

MAGGIE ATKINSON: Are there heads who admit they happen?

JULIAN LEE: Sorry?

MAGGIE ATKINSON: Are there heads in Waltham Forest who sit there and admit they happen?

JULIAN LEE: No, because of course it doesn't happen in Waltham Forest. No, no, actually, at the moment, I can put my hand on my heart and say I don't think it does happen to my knowledge. That's a qualification for you!

MAGGIE ATKINSON: Well, how would you know!

JULIAN LEE: Exactly, exactly, yes. You caught me nicely there.

MAGGIE ATKINSON: It's one of the elephants that have been in the room with us since we launched this inquiry. That's why we're asking the question.

JULIAN LEE: Well, let's think about the terminology used to start with. To my mind they're immoral rather than unlawful, because what happens is that the headteacher will exert influence, power, persuasion, threat over a parent to withdraw their child from school. This is the classic method; you know, 'Your child is not succeeding here and I suggest you voluntarily withdraw him. You remove your child from the school and, you know, I'll make some arrangement for little Johnny's education with one of my colleagues down the road.' Which of course never happens, and so the vulnerable parent is persuaded by an

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unscrupulous head teacher to voluntarily withdraw their child from the school, and then that's it – it's a done deal basically. So to me that's not unlawful – they haven't broken any law – but it's bloody immoral and I really don't approve of that at all. And if we caught somebody doing that, we would really want to move on them.

MAGGIE ATKINSON: But it is illegal, isn't it? You are withdrawing the right of the child in law to a place in the school.

JULIAN LEE: No, the parent is making that decision; the parent is making that decision.

MAGGIE ATKINSON: Ah, the elective home education.

JULIAN LEE: Well that's it. The parent is simply being persuaded or threatened or cajoled by a head teacher to remove a child. 'It is really simple,' they say. 'If you don't remove your child and find another educational placement for him...'

MAGGIE ATKINSON: 'We'll exclude him.'

JULIAN LEE: 'We'll exclude him.'

MAGGIE ATKINSON: And then it will be on his record.

JULIAN LEE: And then it will be on his record and he is damned forever. You know, so what do the parents do? Well, you know, these are powerless people; these are not influential people who understand how you can challenge a head teacher about such things, the majority of them. They're quite vulnerable people, as you know. So yes, that's why I say it's not unlawful; I say it's immoral. For example, there are probably other ways heads...

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MAGGIE ATKINSON: What do we do about it?

JULIAN LEE: What do we do about it? There isn't a simple answer to this, and I'm not going to hedge about it. But I do think if schools are working in partnership together there is no need for those types of actions to take place. If a school can't cope with a child anymore and they're honest about it, and they're starting to come together about thresholds about how they're going to behave as a collective organisation, there is no need. And the whole idea of the kind of provision that I see and am developing, and a lot of my colleagues nationally are doing, is that it obviates the need for permanent exclusion. I mean it's just so inefficient, permanent exclusion, you don't need to do it. There are – I'd say inclusion, but not at any price. But there isn't a huge need to make permanent exclusions. There isn't a huge need to actually unofficially exclude or immorally exclude if the head teacher knows he/she will be supported by the local authority and their partner schools and the vols and the partner agencies around them. If they know that, they don't have to do it.

JANET MOKADES: I would argue that by definition – and I'm with you in everything you're saying, except your faith.

JULIAN LEE: My faith?

JANET MOKADES: Your faith in the collaborative. Because I would argue that, by definition, those heads in those schools who do this immoral thing you're describing are the ones who don't collaborate, and who don't want to work with surrounding schools and who are mavericks and so on. And if you think about the cases that you've known, certainly in the cases I know they have almost always been those kinds of schools. They are possibly at war with their local authorities, you know?

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JULIAN LEE: Yes indeed.

JANET MOKADES: They don't want to know about the school down the road. They're not nice.

JULIAN LEE: I know, I know that, and the thing is I'm not naïve; I know that that is the reality, but the thing is there isn't a simple answer to 'how do you change an institution's behaviour?' other than through legislation or regulation. And there is no way that this government is going to regulate or legislate against something like that, because, as you've quite rightly said, it's very hard to see for a start. If parents don't rear up and make a complaint about it, then it goes unknown.

MAGGIE ATKINSON: So is there a way of making the club so attractive that even a maverick will join?

JULIAN LEE: Yes. This is exactly what should happen. We have to be positive about this. I accept what you're saying. So the second point to my proposition here is I'm not naïve but I am optimist about this. We have to push away; we have to say – as you've said Maggie, we have to create a culture where they want to play – where they want to join in. And do you know what it's about more than anything? It's about getting them around the table. It's about – and this sounds really trite and stupid – but we have quite a laugh. The fair access panels shouldn't be the most ghastly of experiences, where it's just horse-trading kids around a table. We start quite often with training and development sessions for head teachers – 45 minutes of intensive concentration on stuff that is really important to them – and, you know, the chair of the panel has actually got a fantastic sense of humour, and he gets them laughing to start with. Now the heads want to be there; they like being there. If

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you don't like going to a meeting, you're not going to go, or you're going to find a delegate to go or a deputy to go. You need to get the head teachers engaged to start with.

MAGGIE ATKINSON: That's not what I do. I go to everything.

JULIAN LEE: You go to everything, do you?

MAGGIE ATKINSON: Absolutely.

JULIAN LEE: Okay. I'll move on.

MAGGIE ATKINSON: We need to move you on.

JULIAN LEE: Yes okay.

MAGGIE ATKINSON: Because one of the things that is at the heart of what we're trying to look at is the whole issue of the over-excluded, under-excluded groups, and you characterised Waltham Forest as a very diverse authority. You may well be able to talk to us with some depth of knowledge about the over- and under-excluded groups. Do you want to just talk about it?

JULIAN LEE: Yes I will.

MAGGIE ATKINSON: And then just move us into the equality issue, which is the Equality Act itself.

JULIAN LEE: Yes, that's fine. I will happily talk to that. Yes, even though we are a very ethnically and socially and economically diverse borough, like many London boroughs, I would have thought the profile of exclusions are – I won't say it's an excuse, because there

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are hardly any, but the kids that fail that have to be dealt with through the fair access panel – are disproportionately over-represented by black Caribbean males and, actually, interestingly enough in Waltham Forest and in many East End boroughs, quite a lot of young Asian guys these days. That’s probably not reflected in national data.

MAGGIE ATKINSON: From a particular faith group or particular parts of the continent?

JULIAN LEE: Well no, that would be hard for me to say, and I wouldn’t want to generalise about it, but without a doubt I think ethnicity is one issue but nationality is another one. We get youngsters, like many East End boroughs do, from Africa, and they are coming in and they come in from countries that are, you know, violent in the extreme. When they come to our country they might be here for a year or two; they are certainly not assimilated to the expectations of behaviour that we have. So they approach our schools and our institutions in a completely different way.

MAGGIE ATKINSON: So they’re the Congolese youngsters for example?

JULIAN LEE: Yes exactly. I had a Congolese boy who assaulted my Maths teacher two weeks ago – put him in hospital, totally unprovoked. But, you know, that is what he did and that is what he does, and, you know, that is his context. So yes, I wouldn’t want to say about specific racial groups or even religious groups within Islam. But it is noticeable at the moment that there is a significant minority of young Islamic men that I’m noticing are arriving in specialist provision, and definitely the black Caribbean boys. We don’t see too many GRT, Gypsy Roman Travellers, in our borough but certainly black and Asian.

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And as to the reasons why, you know, this is just one of the most sensitive areas for discussion I think, and not one I'm going to shy away from. It is noticeable, isn't it, that when regarding black Caribbean boys that achievement falls away from Key Stage 2 onwards; it has done for the last four or five years. We have to ask the question, 'Why is that happening?' To my mind if achievement is a definition of what we should be doing in education, we are simply and quite clearly failing to get to grips with a considerable number of young people in our population, particularly our metropolitan and urban populations, who are failing to engage. You know, they're not different to anybody else in terms of their capacity to achieve, but something happens at around Key Stage 2 that helps this kind of gradual process, for some, of disenfranchisement. Whatever it is, you've probably read all the studies much more than me, and even though rates of exclusion have declined recently, I think there are two issues here.

One of them is about family background and role models. I think we would certainly find that we need to quite often with black Caribbean boys provide role models that are going to connect with them, because it does seem there is an absence of positive role modelling that is going on in some of their families. So family background is an issue and street culture is definitely an issue. It's interesting that many young Islamic lads at the moment are embracing the Afro-Caribbean street culture. The language is interesting, listening to the language, the patterns of speech, the interest in, you know, certain music styles and types. It is fascinating in all boroughs that they – you probably know this anyway – but in all boroughs gangs are not defined by racial groups; gangs are defined actually by postcodes. You know about this don't you? Okay I won't go on about it, but it is interesting to note that the values that they share define what they believe in and how

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they're going to behave. So I think persistent lack of engagement leads to poor performance and quite often leads to exclusion for these disproportionate groups like black Caribbean. And I think it is something that most boroughs are mindful of, most local authorities are mindful of; as I say, I think it's a metropolitan and urban problem more than it is in somewhere like Hampshire or West Sussex. What do we do about it is the question. This is about engagement, and I think there are examples of excellent and outstanding practice across London, Manchester and Birmingham about the engagement of disenfranchised young people from various ethnic backgrounds. I think the examples are there.

ROBIN RICHARDSON: Can I interrupt?

JULIAN LEE: Yes of course.

ROBIN RICHARDSON: Could you give some examples?

JULIAN LEE: Yes, the infamous [Cophorne School?] did rather well a while ago as I recall. I visited there as a National Strategies Adviser. Making use of – there are many, many black mentoring programmes where black men, 100 black men, are actually working with Afro-Caribbean boys and mentoring them to re-engage in education. If you want I'll try to dig out some practical examples for you, rather than trying to dredge my mind for them now, and I'll get back to you.

MAGGIE ATKINSON: That would be useful.

JULIAN LEE: Yes, we've got quite a lot really; I've got quite a lot.

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MAGGIE ATKINSON: In some of the other areas of our work, we're looking at how positive some of the aims of that can be if what we reinforce is a model of black manhood that it is sexist or exploitative or whatever. And there is at least some shadowy evidence that there are elements within that mentoring mentality that is about creating a model of manhood that is not necessarily gender friendly towards women and girls.

JULIAN LEE: Yes, that would worry me certainly.

MAGGIE ATKINSON: Yes, so that's one of the things we're looking at as part of the work that my deputy commissioner Sue Berelowitz is doing on [crosstalk].

JULIAN LEE: I know Sue. I used to work with Sue.

MAGGIE ATKINSON: In gangs and groups she's looking at sexual exploitation.

JULIAN LEE: Is she?

MAGGIE ATKINSON: She's also looking at things like the influence on males, on boy culture in particular, of dub lyrics that are violent and sexist.

JULIAN LEE: That are really bad, yes, indeed.

MAGGIE ATKINSON: So we'd be interested in examples that you might find: both the positives, where re-engagement has been positive in terms of the boys' self-esteem and engagement, and also positive on the institution and the rest of the community.

JULIAN LEE: Definitely. I mean I do quite a lot of work with – I've got the lead for schools and gangs in the borough that I work in as well.

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MAGGIE ATKINSON: Right.

JULIAN LEE: So yes I'm really interested in this because it is a product of educational failure as much as anything else when these kinds of things happen.

JOHN CONNOLLY: I'm sorry, we've got about five minutes left.

JULIAN LEE: Okay fine. Alright, I'll get back to you about that.

MAGGIE ATKINSON: Please do.

JULIAN LEE: Yes, I'll make sure I've got your email address so I can get things through to you. The other issue really is about SEN and other groups – other vulnerable and at risk groups. Do you know what? I've thought long and hard about this and there are two key issues here for me. One of them is that I'm constantly bemused by the idea that behaviour should be regarded as a special educational need. That's a concern to me. It's a human thing; it's not necessarily a special educational need. It might be a barrier to learning, but it's not an SEN in my mind. Any psychologists in the room, I apologise unreservedly for that view, but there it is. The other thing about SEN and our lack, our collective lack, of ability to deal with those most at risk and most needy says something awful about the state of our country. And I can't quite get my head round that; I haven't got an answer for you at all on that front at all. But I've been doing it for a long time. I think we don't get to grips with poverty; I don't think we get to grips with the vulnerable and at risk, and sometimes we seem less human than some of our European neighbours to me. That's just my view.

MAGGIE ATKINSON: We had somebody in here who talked to us about, if you draw a quadrant and you put four agents, one in each quadrant, it's the child, the parent, the school and the

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neighbourhood. A tremendous amount of what's going on is in the parent, the family and the neighbourhood.

JULIAN LEE: Yes.

MAGGIE ATKINSON: And therefore in the mind, in the heart and the life of the child, and English society somehow lumps what needs to happen and pushes it through the door of the school.

JULIAN LEE: Yes, school has become the pillar of our community and not necessarily in a very helpful way – what you're saying. We take accountability to – sorry I interrupted you there. You were going to say something profound, Maggie.

MAGGIE ATKINSON: No I wasn't necessarily. I don't know whether panel members have got reflections back to Julian or things that they want to investigate in more depth. Robin or Janet?

JANET MOKADES: No. I mean I'm musing about your Black Boys Can and all the other groups and so on, and so on. The evidence is very patchy really, isn't it?

JULIAN LEE: Yes it is.

JANET MOKADES: I know the odd school where those things have been done as a whole school approach, and it does seem like Gladesmore[?] is the one that sticks in my mind from all the ones I've looked at. And he's been there a long time. Tony?

JULIAN LEE: Yes, I'm not sure.

JANET MOKADES: Haringey, you know?

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JULIAN LEE: Haringey? Yes, yes.

JANET MOKADES: Tottenham. I mean it's not for lack of programmes.

JULIAN LEE: No, it's not.

JANET MOKADES: And attention in London certainly.

JULIAN LEE: No, in London you're right.

JANET MOKADES: Because that territory has been very well... hasn't it?

JULIAN LEE: It has.

JANET MOKADES: And girls are still achieving.

JULIAN LEE: They are.

JANET MOKADES: Black girls I mean, and are still over-achieving when compared with...

JULIAN LEE: There is a big cultural issue here. You know there is without a doubt – and I think, you know, I read a report a little while ago and it was a black commentator and he is a researcher, I can't remember his name.

JANET MOKADES: Tony Sewell?

JULIAN LEE: Yes, that's right.

JANET MOKADES: Probably Tony.

JULIAN LEE: It was, it was.

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JANET MOKADES: It usually is.

JULIAN LEE: Thanks for that. Yes, and he said some very challenging things to his own community, and I thought well, 'Good on you mate. Carry on saying those things,' because actually, if we're looking at black achievement, you know, that's what we've got to focus on. We haven't got to focus on black exclusions; we've got to focus on black achievement.

I'll just finish off by saying on this: a few years ago I took a bunch of school teachers over to South Africa, and we looked at all the schools in South Africa, from jungle schools under a tree, you know, through township schools to the most exclusive private schools. And I taught in a township school for a little while, and I tell you every one of those children were ready to learn – 60-odd in a class sat there ready to go. They were motivated and ready to go, and I thought about it and it made me reflect a bit and, actually, they wanted to learn because they see learning as a pathway out of this awful situation where they live – a pathway from poverty. And I'm not so sure that that connection is being made by some members of our community, you know. There is an alternative out there and, actually, education is a pathway for you. I don't think we're getting that message across, Maggie, and it's an important point.

JANET MOKADES: You're right, and I mean the figures you're talking about are correlated very clearly with poverty, because we do have black men that are coming through the system and being very successful and ending up as MPs or this and that, or whatever it may be.

JULIAN LEE: Yes of course, yes.

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JANET MOKADES: Who are very different – who are not coming from those very poor backgrounds.

JULIAN LEE: Indeed, there are exceptions to the rule. I mean I couldn't possibly provide answers for you on behalf of the directors of children's services with regards to these really complex questions, but I have a view and I will come back to my theme, really, of: we are not islands in educational institutions – we simply cannot be. One of the things I will do, and continue to want to do, working with Charlie Taylor and others, is to try to influence and persuade that creating a climate for partnership working in schools is the way forward. It will help in all sorts of ways.

MAGGIE ATKINSON: Thank you so much for stepping in at 24 hours' notice for the association. I will shout at Sarah and Rebecca that anybody should place you at 24 hours' notice, for goodness sake. It wouldn't have happened when I was president.

JULIAN LEE: I don't regret the opportunity. Maggie. My director asked me to do it.

MAGGIE ATKINSON: Good, good, and do feed back to them.

JULIAN LEE: Yes I will.

MAGGIE ATKINSON: And I will be in touch with them again to have a meeting with the board so I can triangulate your views as a deliverer, commissioner and worker in the field with the views of the directors.

JULIAN LEE: Perfect.

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MAGGIE ATKINSON: We've now got six people from three academy chains coming to talk to us
– four academy chains. Four, my goodness me.

JULIAN LEE: Did we cover everything to satisfaction?

MAGGIE ATKINSON: Yes I think we covered a lot of ground but if you do have some of that
positive stuff about [inaudible] .

JULIAN LEE: We didn't talk about the Equalities Act, but I think it will help actually.

MAGGIE ATKINSON: You think it will galvanise them, do you?

JULIAN LEE: Yes, I think it's broadly helpful. I'll finish off by saying that.

[Hearing ends]

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OFFICE OF THE CHILDREN'S COMMISSIONER

SCHOOL EXCLUSION INQUIRY

At

Meeting Room 8

33 Greycoat Street

SW1P 2QF

On

9th December 2011

Present

Dr Maggie Atkinson – Children's Commissioner

Mr Robin Richardson – Education Consultant

Mrs Janet Mokades – Schools Adjudicator

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Mr John Connolly – Policy Director

Ms Delyth Johnson – Inquiry Assistant

Interviewees

Mr David Gould – Principal St Albans Academy, ARK Schools

Mr Devon Hanson – Principal Walworth Academy, Southwark, ARK Schools

The Rt Revd Peter Hullah - Group Executive Director Ethos and Values United Church Schools
Trust and United Learning Trust

Dr Daniel Moynihan – Chief Executive Officer, Harris

Ms Lesley Smith – Communications Director, ARK Schools

Mr Gerry Walters – Director of Education, E-ACT

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1 MAGGIE ATKINSON: So I'm Maggie Atkinson. I'm Children's Commissioner for
2 England, and we're based at the top floor of this building, in a tiny team of people
3 who work for the voice of the child basically. That's the summary really. We're
4 running a formal inquiry into matters of equality, good practice, inequality,
5 questionable practice in how children end up being excluded from school. We've
6 been out into the field; we've met academy pupils and teachers and heads and
7 governors. We've met local authority staff, we've met police service people,
8 we've met children and young people themselves and governors and heaven knows
9 who else. And in those sessions we take a great deal of evidence, which has been
10 formally transcribed, but, where we end up quoting from those people, what
11 they've said to us will be entirely un-attributable. So we may say, '14-year-old,
12 south Asian male in a West Yorkshire comprehensive school.' What we won't say
13 is his name was Hassan, it was half past two on a Wednesday afternoon in the
14 middle of a Maths lesson. These sessions we're running – we've run a full day
15 today, we'll run a full day on Monday, and then there will be some bilateral
16 sessions with people who have come in to make the panel – are fully transcribed
17 and they are being recorded verbatim, and unless you say, 'I would like this
18 comment to be off the record,' your comments will be on the record and
19 attributable. So that is how we're running these sessions. I'm supported by a panel
20 of more than two great experts in the work that we are doing, but these are the two
21 that could make it today, and on Monday it will be a slightly different cast. So I'm
22 going to ask them to introduce themselves. You've seen Rhodri at work; he's
23 switched on the microphones, and we will take your names as well and then we can
24 begin our discussions. And I will explain how we have worked as the day has gone
25 on, and see if that works for you when we do the introductions. So we start here.

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1 JANET MOKADES: Janet Mokades, former HMI for many years and currently schools
2 adjudicator.

3 ROBIN RICHARDSON: And Robin Richardson, particular interest in equalities in
4 education.

5 JOHN CONNOLLY: I'm John Connolly. I'm Maggie's principal policy adviser on
6 education.

7 DELYTH JOHNSON: I'm Delyth; I'm an assistant on the inquiry.

8 DEVON HANSON: I'm Devon Hanson, Principal at Walworth Academy, ARK Schools.

9 MAGGIE ATKINSON: I came to your school for a Met cadets' ceremony. It was
10 fantastic.

11 DEVON HANSON: Yes you did, that's right.

12 LESLEY SMITH: I'm Lesley Smith; I'm Communications Director for ARK Schools.

13 DAVID GOULD: I'm David Gould, Principal of the St Albans Academy in Birmingham.

14 GERRY WALTERS: Gerry Walters, Director of Education, E-ACT, academy sponsor.

15 PETER HULLAH: I'm Peter Hullah, Principal of Northampton Academy until July this
16 year and I'm now the Executive on the Executive board of ULT.

17 MAGGIE ATKINSON: And behind you, ladies and gentleman, is Sandeep, who is part of
18 my communications team and specifically is supporting this inquiry. What we're
19 proposing to do: we sent out a list of bullet points for you to consider and think
20 about, and how it's worked as the day has gone is people have not played head

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1 tennis and asked a particular question for a particular answer. People have used
2 those bullet points to frame what has been a very fruitful and detailed discussion
3 from a very wide range of perspectives. So we've had Ofsted in, we've had a local
4 government ombudsman in, we've had somebody who runs alternative provision in
5 and a pupil referral service in a complex London borough and so on. And on
6 Monday we've got a variety of others in, and then I'm talking to the [inaudible]
7 authorities and the teacher unions and you name it. So if you're comfortable with
8 using those bullet points to frame the discussion, then that would be terrific. If you
9 want to pick up specific points, that's fine. The panel may well say, 'Can I just go
10 into that in a bit more detail, please?'

11 We come to this recognising that many, many, many of England's children
12 learn extremely successfully in academies, and academies are very often extremely
13 inclusive schools and work very strongly within a pattern of provision within their
14 localities. So we're not coming to this with an agenda, and we will tell the
15 government exactly like it is, what's in all good practice and other as we find. And
16 we will report next March. What happens as a result of today is that anything that
17 we say to each other will be sent to you as unedited text, and you will have the
18 chance to say, 'Well, what I meant was this but it came out like that.' If at any
19 point in the discussion you say, 'I want this to be off the record,' that's absolutely
20 fine. But we are recording absolutely everybody; we have recorded kids and
21 teachers and heads and governors, because otherwise we don't know what we're
22 being told – we can't keep it all in our heads. So I do hope you did get the chance
23 to look at the bullet points we're putting out, and if somebody wants to kick off
24 with a first reflection, then please do feel free to speak first. That's always the
25 killer!

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1 DAVID GOULD: Can I start?

2 MAGGIE ATKINSON: Please do.

3 DAVID GOULD: We are committed to reducing the number of exclusions across the
4 ARK network, and the way we think we can do that most successfully is: to have
5 absolute clarity about expectations to ensure there is complete consistency with
6 regards to the application of sanctions and rewards; to thereby eradicate arguments,
7 disaffection where the procedures are seen not to be operating absolutely fairly;
8 and also, to establish a behaviour management framework which is strict, very
9 strict, but conducted in a very fair, polite and respectful way. For example, St
10 Albans is a no shouting academy. We always talk to the students with politeness
11 and respect; nevertheless, we are ruthless and we have strict sanctions for
12 misdemeanours, including same day detentions and Saturday mornings and so on.
13 By being absolutely transparent and consistent, we have reduced the number of
14 fixed-term exclusions – cut it in half – since we became an academy in 2009.

15 MAGGIE ATKINSON: Whereabouts in Birmingham are you, David? I used to work in
16 the city.

17 DAVID GOULD: We are in Highgate, just near the Central Mosque.

18 MAGGIE ATKINSON: Yes, I know where you mean.

19 DAVID GOULD: And we also believe that we are reducing the inequalities, and that is the
20 way to reduce the inequalities because a lot of misbehaviour in schools is
21 opportunistic. And vulnerable students who are more likely to misbehave get into
22 trouble because the school is less well run than it could be, and if the school is a

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1 really tight ship then that helps those students as well. As does the transparency
2 and the respect. So as well as reducing the exclusions we believe that that type of
3 ethos reduces the inequalities as well.

4 MAGGIE ATKINSON: Right. So I mean we went into Mossbourne and met some
5 students who were close to the brink of exclusion until they were taken to a space
6 where they could and did learn more effectively. And they were in exactly the
7 same place you're coming from – hello... as their compatriots, but they weren't
8 allowed to mix with their compatriots but they were all able to take their GCSEs.
9 All of them said – they were in Year 11 and all of them said, 'If we weren't here
10 we don't know where we would be, and we're better here.'

11 DAVID GOULD: No, and the other thing I would like to say in that regard is that the
12 standards and the rules are the standard and the rules, and we don't believe in
13 changing them for different students or different groups of students. Therefore
14 within a strict regime like we have it's very important that we do all the supportive
15 things as well. So we have counselling, bereavement counselling, anger
16 management, we have our own learning support centre, learning mentors and so on
17 that support those children that do suffer a lot of sanctions because they're learning
18 proper ways to behave. But it doesn't get them out of the sanctions because the
19 standard has to be maintained consistently.

20 MAGGIE ATKINSON: Right, and you're part of the same chain?

21 LESLEY SMITH: Yes, ARK has 11 academies of which eight are – either are secondary
22 or have secondary as part of them, three that go from three to 18. There are eight
23 that are secondary only and there are three that are primary only, and the majority

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1 of those are what we call transition schools i.e. schools that were previously
2 underperforming that we took over and became academies. There are a small
3 number of new starts, complete new starts, where there was a shortage of places.

4 MAGGIE ATKINSON: Right, okay.

5 LESLEY SMITH: So Evelyn Grace in Brixton, King Solomon in Westminster, ARK in
6 Wembley are complete new start schools. But our ethos – all our schools will be in
7 areas of high deprivation, and the aim is to go into high areas of deprivation and
8 give those children the same opportunities they would get were they from a more
9 fortunate background. I mean in answer, to get back to your question, ‘Do you feel
10 the approach to exclusion differs from academies to other schools?’ we don’t, but
11 we do think that very often, particularly in schools which have been transition
12 schools, the approach to discipline does.

13 MAGGIE ATKINSON: Just unpick that.

14 LESLEY SMITH: Well, the behaviour policy, our starting point is to make our schools
15 work effectively. You have to have, as David just outlined, a very clear, consistent
16 behaviour policy. And one of the things – the first thing you do in a transition
17 school is establish with the pupils, with their families, what that behaviour policy is
18 and what the sanctions are. The first thing you notice in a school between a well-
19 run and less well-run school – and some less well-run schools became our schools
20 – is the level of indiscipline and noise and truancy. So you very often have – you
21 might have a low rate of exclusion but a very high rate of truancy.

22 MAGGIE ATKINSON: Right.

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1 LESLEY SMITH: So you end with sort of informal exclusions.

2 MAGGIE ATKINSON: Self-exclusion.

3 LESLEY SMITH: Yes. And actually, you know, we have gone into schools which we
4 have taken over where staff are completely complicit in just accepting, kind of,
5 ‘Tom wasn’t turning up to school and thank the Lord for that.’ Because you know
6 that was the way the school was managed. Now part of becoming an academy was
7 completely changing that, you know, everyone that enrolls in going to turn up every
8 day, in uniform, on time, ready to be in a lesson. And the relationship with parents
9 is that parents and pupils and the school sign up to that. We would say right at the
10 beginning, ‘You can’t achieve your learning objectives unless you’re in school and
11 your behaviour is better.’ So it’s not the approach to exclusions that is different; it
12 is the approach to behaviour that has to be very, very consistent.

13 MAGGIE ATKINSON: Right. Devon, you’re the principal of an ARK school.

14 DEVON HANSON: Yes I am, yes.

15 MAGGIE ATKINSON: The evening I went to at your school was the volunteer Met
16 cadets awards presentation, which was a splendid do.

17 DEVON HANSON: Yes.

18 MAGGIE ATKINSON: Borough commander and everything. So is that – I mean
19 obviously we have two principals from two completely different cities but part of
20 the same chain. Do you want to reflect on your experience?

21 DEVON HANSON: Yes, I think on reflection perhaps my exclusion rates may have gone
22 up when we first started. I share everything David has said and Leslie, but the

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1 difference was clarity in sanction and rewards, which I think is very important to
2 distinguish that you have the two of them. I don't think you should focus
3 sanctions; you must equally focus on rewards. But one of the things I did at first
4 was to go into the school and ask the senior managers at the time, you know, 'Tell
5 me how many pupils – which pupils are causing you concern.' They gave me a list
6 of 167.

7 MAGGIE ATKINSON: Out of a population of?

8 DEVON HANSON: The population at the time must have been about 600.

9 MAGGIE ATKINSON: Okay.

10 DEVON HANSON: And with that I embarked to see every single parent of those 167
11 children between June and July before they returned in September. I accomplished
12 this. The other thing I made which was significant is actually getting every single
13 parent to come into the school to be very clear about what the expectations were.
14 But the expectations were more about achievement rather than about what
15 sanctions your child, nevertheless it had to be said.

16 MAGGIE ATKINSON: Right.

17 DEVON HANSON: It had to be said, and it had to be very clear what was accepted and
18 what was not. And I think what resonated in the parents was the fact that, you
19 know, our job is to teach your child, you know, to ensure that your child is given
20 the best possibilities to learn, and we won't have a single child messing up the
21 learning of others. Every parent took that on board because, 'It wasn't going to be
22 my child,' you know? Which I think was important. But that wasn't the main

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1 emphasis. The main emphasis was on ‘this is what you’re here for’ essentially.
2 Yes we would like to ensure that you’re happy along the way, but this is the
3 expectation. And what I found in the school is that even parents with children, we
4 told them that we would support the child. So it wasn’t just a case of a child’s
5 behaviour being unacceptable and then this is the sanction. Yes, we told them of
6 the measures, as David said; the counsellors, the mentors, you know, the inclusion
7 unit. Prevention was often better than cure, and this is what was said to the
8 parents. However, every child must have the opportunity to learn and every
9 teacher must have the opportunity to teach. Because, equally, I said that teachers
10 were expected – what was expected of them is to be able to teach and plan lessons
11 so that the children were able to learn. So initially exclusion may have gone up
12 because certain children were just testing the ground, testing me, but on the whole I
13 would say 98.8, whatever, just welcomed the new regime, the consistency. And
14 that is the key thing, because I believe all schools have got good systems, but it is
15 those that keep up with the consistency to maintain those systems and not make a
16 rod for your own back at times.

17 MAGGIE ATKINSON: So we have a fairly strong ARK view there. Welcome Daniel.
18 Daniel is from the Harris chain of academies, and you are the Chief Executive of
19 the chain rather than necessarily a principal of a school. I don’t know. I mean
20 we’ve been in and talked with [inaudible] and her team and they are, of course, one
21 of the London boroughs – I don’t know if there are any others – where none of the
22 secondary provision is local authority – none of it. It’s Harris, it’s ARK, it’s faith.
23 Talk to me about that dynamic: how does that work that you’re on the geographical
24 patch of a borough and presumably primary schools will still be maintained
25 systems or faith systems or whatever? You are yourselves, supposedly modelling

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1 the Secretary of State's notion of collaborative schools supporting each other with
2 or without local authority. Just talk to us about that because, obviously, where a
3 child does obviously hit the end of the road no matter what, and you've given them
4 some pretty clear indications of the no matter what point, somebody has to find
5 somewhere for them to go. How do you do that? Talk to us about it.

6 DANIEL MOYNIHAN: We've got a network of 13 schools in London, and I used to be a
7 secondary head of two London schools, and we do a fair number of managed
8 moves between our schools; they are geographically proximate. All of our schools
9 are previously troubled schools bar one; we've only opened one new school. And
10 we aim to be in London because we see enormous benefits of schools working
11 together and, probably, replicating what the best local authorities have done in the
12 past, we do ourselves. So our schools are close by, we have staff working together,
13 we have them doing training days together, we have units in each others' schools
14 for students to go to to cool down, and we operate managed moves between our
15 schools. And that for us we think works quite well.

16 MAGGIE ATKINSON: Okay and I'm assuming that despite the fact that Harris and ARK
17 are not the same thing – I mean is there inter-relationship between the Southwark
18 Harris schools and the Southwark ARK schools for example? How does that
19 work? Or is it mostly within your own chain?

20 DANIEL MOYNIHAN: It's within our own groups.

21 DEVON HANSON: There has been one or two occasions.

22 DANIEL MOYNIHAN: Yes.

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1 DEVON HANSON: Between Harris Academy Peckham and us.

2 JANET MOKADES: So would you be able to do managed moves between all chains or
3 are the managed moves you're referring to just within the Harris?

4 DANIEL MOYNIHAN: They're primarily within our own group, but from time to time
5 they are also with other schools on a reciprocal basis, but primarily within our own
6 group.

7 JANET MOKADES: And if it were to be with other schools, would the mediating agency
8 there be the local authority or would you go directly to say...?

9 DANIEL MOYNIHAN: No we would go directly, yes.

10 MAGGIE ATKINSON: Okay.

11 DAVID GOULD: On the other hand, we work with very closely with the local authority
12 and with local partnerships of schools, so we manage those through those
13 networks.

14 MAGGIE ATKINSON: Right. One of the interesting things for me is that there are so
15 many different models. So the Birmingham model is one. There's another in
16 Sunderland which is completely different. There's another one in Nottingham, you
17 know.

18 LESLEY SMITH: But all our schools remain part of the local authority, so where there's
19 [inaudible] service, where there's an inclusion team, or there's a child support
20 team.

21 MAGGIE ATKINSON: Educational psychology.

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1 LESLEY SMITH: Yes, we will very often have – and if we get to the stage where we're
2 having exclusion panels with the children, the local authority will usually be
3 involved. And actually, very often, you know, you have children who may have
4 had a long history of problems at school that preceded going to an academy. The
5 local authority turns up with a great long history of since that child was in year 6.
6 So that partnership exists pretty strongly, and you will end up talking to schools
7 outside the chain and within the LEA or within the borders of other LEAs as well.

8 MAGGIE ATKINSON: Yes.

9 JANET MOKADES: Can I ask you one more thing about your arrangements?

10 LESLEY SMITH: Yes.

11 JANET MOKADES: Three of your schools are all-through. Where are they? And are you
12 seeing... you're talking about relating to local authorities and primary schools,
13 children with troubled history. Have those schools been going long enough for you
14 to see whether there's any difference?

15 LESLEY SMITH: Not yet because we've got – the oldest opened in 2007.

16 DEVON HANSON: 2007.

17 LESLEY SMITH: So the primary phase opened in 2007, and the secondary phase opened
18 in 2009. So it has only got two years of secondary and four years of primary.

19 JANET MOKADES: Right.

20 LESLEY SMITH: ARK opened in 2008 in the primary and 2010 in the secondary. Globe
21 is a transition school so that's inherited. So Globe has got sixth form entry at

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1 secondary and two forms coming in from [inaudible], so it will only ever have one-
2 third of its intake come from its own school. And actually in that case it's slightly
3 different as well, because we basically put together two schools to make an all-
4 through school. So although Joseph Lancaster, the predecessor primary, was a
5 feeder for that secondary, those children go to that secondary because nobody
6 wanted to go to that secondary. So that is now changing, but our aim is certainly
7 that you will ease the transition process, you will make it a lot easier for those
8 children and you will be able to give better support to them. I think we're pretty
9 confident in that already because, you know, that's the flow through. King
10 Solomon will be unique because it's two form entry at primary and secondary
11 because it happens to be a very small school. If we could expand it we would, and
12 if Westminster can find us buildings we may well do in the future. So that will be
13 very interesting because those children will go straight through. I mean you will
14 certainly find in year seven, there will be – there's still quite a complicated act to
15 do in those schools where you've got two form entries going in and then another
16 four forms coming in from outside as to how you integrate all those pupils.

17 MAGGIE ATKINSON: [Inaudible]

18 LESLEY SMITH: Yes, but the aim is certainly that you will smooth out to a great extent
19 some of the difficulties that occur at age 11.

20 MAGGIE ATKINSON: Peter, you were about to say something.

21 PETER HULLAH: I was about to say, in our experience we resonate very strongly with
22 what ARK and Harris are saying. I mean we're 17 academies rising to 21, but
23 we're spread right across the country and the picture is very mixed in terms of how

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1 local authorities are engaging with schools. There are some very good examples of
2 good practice, and there are some ones which we would want to question further
3 and develop a little bit.

4 MAGGIE ATKINSON: On the ones where you'd expect it to be quite challenging, does it
5 tend to be on the same theme, is it access to things like special needs services or
6 child or adolescent mental health, or a really strong vocational offer, or is not as
7 logical as I'd quite like it to be?

8 PETER HULLAH: It starts off – it gets to that point.

9 MAGGIE ATKINSON: Okay.

10 PETER HULLAH: But it starts off with an ability or a facility to tolerate to mantra which
11 is around in a school that you take over, which is challenging, where staff say, 'If
12 only I had really good children, I'd be a fantastic teacher.'

13 MAGGIE ATKINSON: Oh the 'what do you expect if they come from round here?'

14 PETER HULLAH: Yes precisely. And then the other Friday afternoon email – and it's
15 lovely of you to gather us on a Friday afternoon. If you're a head you get those
16 emails about 15.00 on a Friday which say, 'I want to have a really important
17 message briefing on Monday morning about the number of people you're going to
18 exclude because they're really in the way of learning in this place.' And in a sense,
19 that's what... if a local authority colludes with that and then that shows itself right
20 the way down in terms of alternative provision; in terms of clumsy and clunky use
21 of the exclusions process; in terms of managed moves which are not as smooth as
22 some of the patterns we've heard, where they're overburdened with paperwork,

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1 where you have revolving door of people moving around or pupils that are
2 conveniently lost without trace when Ofsted make a kind of swoop through the
3 town. This is all, of course, without making any specific reference to a local
4 authority but it is possible to evidence this taking place. Then you are in a position
5 of saying, 'Well, the academy has to intervene and do things really differently and
6 radically.' And the radical difference, as you've said, starts with behaviour
7 structures, and the teaching and learning which then become attendance hooks.
8 But of course, it is a culture where you move from exclusion to inclusion. And I
9 think if I can say one thing about what you're doing, which I think is really
10 important to get the feel of it, it is actually to highlight the word inclusion and
11 diminish the word exclusion, because then you get teachers thinking inclusion.
12 And they actually realise it is about what goes on in the classroom, and then all the
13 help points that you can put in an academy will fit together with that. And then
14 you become, 'Yes, we can become responsible for our own destiny,' and the Friday
15 afternoon emails diminish, and you don't have someone standing up to say, 'I want
16 to talk about behaviour,' because actually you've cracked it from the other way up.

17 I think we're uncertain about where the local authorities are going in terms
18 of provision locally – what they're able to provide. We're finding it difficult to
19 evaluate what is good value for money, and quite often some of the services that
20 we're being offered in certain places are hugely expensive. And we're not seeing
21 the kind of progression coming through that we would like. Therefore the key, I
22 think – and it's interesting to talk nought to 19 – the key is to systematise education
23 so that children know there is a particular shape to the way assessment takes place,
24 to what happens within classrooms, so that they're not going to be shipped off
25 somewhere else – they're going to be kept within the school they know and belong

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1 to and that will give them confidence. It may be that there are various degrees of
2 mainstreamness, but it's got to be systematised because it's the only way that
3 actually children will develop. I think the one thing I'd add as well is the transition
4 arrangements that were mentioned – from year six to year seven transition. If
5 again you highlight good practice, I think academies are at the cutting edge of
6 trying to be innovative where they can actually make a way to do things
7 differently. We notice, certainly with a Northampton hat on, that probably the
8 academies that are in Northampton are more proactive with the primary schools,
9 backtracking further into year six to make transition better, and the beginning of
10 joint curriculum development, year six and year seven, with I think, one academy
11 certainly, taking a lead in having a radically different year seven curriculum which
12 is more like what happens in a primary school. So it's the academies using the
13 flexibility they have, and then in terms of the deployment of their resources to deal
14 with vulnerable children. And I suppose the bottom line then, of course, is how do
15 you incentivise that? How do you make more of it happen? The honey pot effect
16 of working together across local authorities is clearly one way, but out further
17 across the country it becomes more difficult to actually shape it.

18 MAGGIE ATKINSON: Gerry do you want to use the E-ACT perspective please? There
19 are three of you here from three different chains, and then there is a useful group of
20 cross-referencing going on from ARK.

21 GERRY WALTERS: Okay, thank you. Yes, fascinating to hear what individual
22 principals are saying on the consistency that I'm sure is far from rehearsed that I
23 hear in this meeting and outside this meeting from colleagues representing other
24 sponsors. The issues that we confront come with none of those geographic benefits

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1 that Harris have just been reflecting on. We are actually spread, if you want to
2 look at the diagonals, from Leeds in one corner, diagonally to Dartmouth in Devon,
3 to Cheshire, to Brent.

4 MAGGIE ATKINSON: Whereabouts in Cheshire are you? I used to work for them as
5 well.

6 GERRY WALTERS: Winsford.

7 MAGGIE ATKINSON: Oh, right. So did you get the Woodford Lodge?

8 GERRY WALTERS: We did and Verdin, we have actually merged them into a single
9 institution.

10 MAGGIE ATKINSON: We'll have a conversation afterwards. Go on.

11 GERRY WALTERS: So really the things we wrestled with are what other colleagues
12 wrestle with but are compounded by distance, and I think the risk, therefore, of
13 interpretational difference, of consistency not happening across the E-ACT group,
14 is huge. And I thought what I would share with you, and picking up on bullet point
15 two as a multiple academy sponsor with our geographic spread, is what we do
16 about that in general plus some specific examples. I was listing them for
17 somebody earlier on today. The first thing we did in recognise the potential risk
18 with 14 open from this coming January – and it is a real mix from January. That is
19 nine secondary, three primary academies, one primary free school and one three-to-
20 19 all-through. So they all bring their own mix to this, with the all-through being a
21 merger of two schools that shared a site previously as separate entities. And that is
22 an interesting challenge: Making it 'gell' t by changing mindsets. What we

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1 actually do to minimise the risk of difference and, perhaps, poor interpretation is to
2 have... first of all, on the prescription side of things, we provide a model
3 Exclusion Policy. And I think it is absolutely honest and fair to say it is
4 descriptive; I hope it doesn't stray into prescriptive. It talks about what we want
5 out of it; it doesn't necessarily describe the entire journey and the route to be taken,
6 but it is very descriptive.

7 MAGGIE ATKINSON: That sounds like a potential piece of good practice Gerry; I don't
8 know whether you'd care to share it.

9 GERRY WALTERS: Happily, happily. I have shared it already with other sponsors.
10 Alongside that we have a model attendance policy, and we emphasise it is an
11 attendance management policy. One of the first things I did when joining E-ACT
12 was to generate 11 Quality Standards, and they cover things as banal as financial
13 management to behaviour for learning, attendance management and so on. But
14 they are absolutely key because anyone coming into manage or lead one of our
15 academies has those in place from before day one. The expectations are clear; each
16 quality standard concludes with a section about intervention, which basically says,
17 if one or more of the following obtain, then E-ACT will intervene. Now the nature
18 of that intervention isn't necessarily sledgehammer; it may be a 10 minute phone
19 call. It is proportionate and it is always in inverse proportion to success. So if we
20 feel there is not enough resource or focus on a particular issue, and therefore it has
21 slid the wrong side of our expectations, we will engage in a very focused
22 conversation about that until we're satisfied – until I officially sign off that
23 intervention. So we have model policies, and clear quality standards we've set up.
24 For me, the greatest impact in avoiding any kind of fragmentation has come

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1 through setting up our Champions Groups. So we now have Champions Groups
2 within E-ACT that address attendance management, behaviour for learning,
3 safeguarding, data management, financial management – a whole raft of these. The
4 latest one is for post-16 managers. These meet and each academy elects its own
5 champion. And we've done our very best to ensure it's not exclusive SLT
6 membership; it's a raft of people, some of whom have not spoken on behalf of their
7 school or academy before.. They now come along and the sessions are hotbeds of
8 enthusiasm and change management. They not only come and talk but they
9 determine the agendas: they take it in turn to host and chair. They actually are
10 providing our next set of model documentation and our next set of quality
11 standards when they're reviewed. Because these people are now driving it across
12 and within E-ACT, knowing what we want as an outcome and describing the
13 different routes that they are prepared to share and work on collectively. This is a
14 massive benefit. Should we have an issue in one academy, be it around the quality
15 of mathematics teaching or behaviour for learning, and one of our academies will
16 be vying with another to provide support. In the case of behaviour for learning
17 and exclusions that's certainly been the case. We no longer initiate those
18 dialogues; it is now perpetuating itself very helpfully. What we do is quality assure
19 that interface to actually make sure we're not having bad practice fostering bad
20 practice, which could potentially happen. How do we monitor? How do we
21 regulate? You know there's a very heavy hint in much of what I've read before
22 coming here today in what was written in the Centre for Social Justice report that
23 was written back in September. I remember reading about the impact of regulation
24 or the absence of regulation and how that affects how exclusions are managed, or
25 not managed.

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1 MAGGIE ATKINSON: Well they majored on informal exclusions didn't they and back
2 door exclusions.

3 GERRY WALTERS: Absolutely, but it was an interesting way of them looking at that.
4 What we actually do twice a term across E-ACT is employ a Score-card system,
5 crude in its simplicity perhaps which via red, amber, or green provides an
6 evaluation across all the headings you might expect really, from resource
7 management to exclusion rates, to staff recruitment. We have those school cards at
8 least twice a term and there are additional reports if there is an intervention in
9 place. So in terms of regulating, monitoring, knowing and sharing, we're quite
10 happy about where we are but not complacent about it.

11 MAGGIE ATKINSON: I mean I'll reflect back to you as somebody who, you know I
12 taught in comprehensive schools and then went into a huge mix of local authority
13 jobs and my final job before I got this one was as a director of children's services.
14 Now that was in Gateshead which was an excellent authority and what you've just
15 described is what we did with our 80-odd schools. It feels to me as if what you're
16 talking about is almost a pan-national model of good practice and it sounds like a
17 very strong exchange between the best of professionals from one end of the
18 country to the other. And I know that the Harris group being very, quite
19 geographically tight, is there ever a point and I ask this entirely openly because I
20 don't know. There were times when I was local authority director when I just
21 knew that we were on the edge of being bureaucratic. I was very tight with my
22 people and I refused to let them be over-bureaucratic, so stated fast if we
23 needed a statement, we intervened fast; we made sure that people who were
24 excluded were properly catered for because I was the boss. But I know there are

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1 local authorities that slow things down and are expensive. Is there ever a danger
2 and I'll maybe ask you first Daniel because you've got such a geographically tight
3 group of most of your schools, is there ever a danger that any chain, your own or
4 anybody else's could ever replicate that?

5 DANIEL MOYNIHAN: Of course there is. That's definitely a danger. I mean our own
6 philosophy – each academy chain has its own philosophy, our philosophy is we
7 recognise that we are an overhead on schools and everybody in our head office is a
8 drain on what really matters. So we have probably one of the smallest charges of
9 all the academy groups on our school budgets and our central team is only,
10 numbers only 30. So we are a fraction of some, yet of our ten schools inspected
11 eight are now outstanding. So we are delivering the goods, it's a small team, it's
12 deliberately designed to be like that. We recognise the danger you've just
13 mentioned and fortunately, so far, our headteachers are quite happy to tell us what
14 they think. They work collaboratively with us because they choose to do so and
15 they don't see it as bureaucratic, but they do compare their experience in Harris
16 with the experience they have with their local authority, and they compare
17 extremely favourably. So for example, in one London borough if we need to have
18 ed. psych assessment done, it will take six months, we can purchase one on the
19 free market and have it done within a week. So we are providing far better services
20 for many needy children that would be possible if we were operating within the
21 local authority context. And we value that freedom because we use it decisively
22 and quickly and rapidly in the way you described. But equally, it would be
23 possible to be bureaucratic but I don't think we'd improve and maintain the record
24 that we have if we did.

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1 MAGGIE ATKINSON: And I've met youngsters from the Harris in Bermondsey.

2 DANIEL MOYNIHAN: Okay.

3 MAGGIE ATKINSON: At an awards ceremony and they were very clear that there
4 partnership with the local authority continued to be in their best interests that's
5 why they went.

6 DANIEL MOYNIHAN: Correct.

7 MAGGIE ATKINSON: And I think that is the model that has grown over a time in most
8 areas where there are a fair number of academies. I am interested and you'll know
9 that one of the things that this Inquiry is looking at, is the very groups of children
10 and young people who have tended to be, Winsford in Cheshire a very tough bit of
11 the country, no two ways about it. Bermondsey, not easy, one of things we're
12 looking at is the sorts of groups of youngsters who are likely to be your main client
13 groups in many of your schools. How over excluded were they? How do you hold
14 onto those whose engagement may not be right? Whose role modelling at home
15 may need help and advice and such? They are the groups that tend to be over-
16 excluded across the nation's statistics, you know, black boys, particularly black
17 Caribbean boys, Gypsy Roma Traveller children, poor children not rich children,
18 boys not girls. Talk to me about how you work on that.

19 DANIEL MOYNIHAN: I'd be really keen to make a comment on that because one of
20 things that really drives us mad is we get, as colleagues do, we get dysfunctional
21 schools and that's what we love to have. The worse they are the better we like it.
22 But we will often find that those dysfunctional schools have ended up with all of
23 the children, or a lot of the children that other schools don't want. And it is often

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1 done not using the rules, so I apologise for being late, but if you ask me, do we
2 operate exclusions different to other schools? Then the answer would be yes. We
3 operate very differently to the schools that we've replaced in that we attempt to
4 follow the rules. We've taken on a couple of schools this September and we've got
5 six kids who have been off school for a year because the school has sent them
6 away, didn't bother to exclude them, just said, 'go home.' They've received no
7 education for 12 months and now we're chasing them up and we're bringing them
8 in. We find kids coming to us that are causal admissions in the same local
9 authority, and when you talk to these children they say, 'no I've got a place at
10 school X.' But this paperwork from the local authority says you don't have a place.
11 'No I have got a place, but the head has said unless I find somewhere else I'll be
12 permanently excluded.' So we find in a number of the schools we operate in there
13 are large numbers of kids who've ended up in those schools because of really poor
14 practice, really poor practice. And you know, our job is to educate those children
15 and it's a source of enormous frustration. It's still going on.

16 LESLEY SMITH: We've had the same where you start in the school and there is a bizarre
17 number of children who appear not to be on the role because the parent has opted
18 for homeschooling.

19 DANIEL MOYNIHAN: Exactly, that's the one.

20 LESLEY SMITH: And you kind of say, 'I don't think so. What 25 kids in the same class
21 went to be home schooled on the same day? No, that doesn't sound very likely.'
22 And actually, you just discover it is because they were elate to reappear on the fair
23 access protocol. Or you inherit a situations where, we've got some schools when
24 we inherit them, they've got far more children on the hard to place list than

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1 anybody else has in the borough and you, kind of, just know that. You start off and
2 you've got the highest number of hard to place in the entire borough and that
3 makes it very, very difficult.

4 DANIEL MOYNIHAN: But you might have a fair access protocol where it is the key
5 criteria is proximity and the poorer areas are proximate to the certain schools. So
6 what it means is that children re-allocated through the fair access protocol to
7 particular schools disproportionately. And that kind of practice is a disgrace.

8 MAGGIE ATKINSON: I mean it's clear that many of the schools that are represented here
9 and many of those in the bigger chains are exactly as you described, they were
10 schools that were with their backs very firmly against the wall and potentially
11 sliding down it. And the chains came in and now they're on their feet. Do you
12 think it's going to be different with what the government are calling convertor
13 academies who are, you know, sort of outstanding already thank you very much,
14 and who become academies? I mean you clearly specialise in picking up schools
15 and moving them into a different place from those where you found them. The
16 convertor academies are coming in through a completely different door, are they
17 not?

18 LESLEY SMITH: I have to say that is kind of, not the space we're in basically.

19 MAGGIE ATKINSON: Right.

20 LESLEY SMITH: Our academies are what academies originally set out to be and that is
21 still our objective.

22 MAGGIE ATKINSON: Change makers.

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1 LESLEY SMITH: Yes, our objective that is why we're here, is to open schools in high
2 areas of deprivation and change those opportunities. So there are another bunch of
3 new – you might call them second generation, or third or fourth generation
4 academies but that's kind of not the space we are in.

5 PETER HULLAH: I would say exactly the same thing on that. Our academies are where
6 we have taken on challenging situations.

7 MAGGIE ATKINSON: Yes.

8 PETER HULLAH: And acted and turned them around. If a convertor academy is in the
9 area we would want to open negotiations very, very quickly.

10 MAGGIE ATKINSON: Right.

11 PETER HULLAH: To say if you've got systems there that you think are robust, what
12 about looking at our systems which are robust and actually, when it comes to doing
13 things such as managed moves then we will do them with you properly. Because
14 in many areas we're finding not the Gateshead experience, but the managed moves
15 are very slow and clunky.

16 MAGGIE ATKINSON: I didn't let them go home until they signed their management
17 protocols so you're alright. Nobody went home until it was signed.

18 PETER HULLAH: Well Gateshead is a shining example.

19 LESLEY SMITH: Yes.

20 PETER HULLAH: And in a sense that's the key that you can actually use this Inquiry for
21 which is to say there is very, very mixed practice across the country.

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1 MAGGIE ATKINSON: There are also very mixed economies aren't there?

2 PETER HULLAH: Absolutely.

3 MAGGIE ATKINSON: Hugely mixed economies going on out there.

4 PETER HULLAH: Absolutely.

5 LESLEY SMITH: But can I just say on this, you were talking about overly excluded
6 groups and I think in our schools we are disproportionately overrepresented among
7 those over-excluded groups. So we do, I mean when you look at your notes there,
8 you know I think it was boys are three times more likely to be excluded than girls,
9 and in our schools it happens to be twice as many boys than girls rather than three
10 times.

11 MAGGIE ATKINSON: Right

12 LESLEY SMITH: However, we wouldn't necessarily say it is very useful school by
13 school, year by year to look at, you know, let's divide up you know, are Somali
14 boys over-represented, are white working class boys over-represented; we sort of
15 know the answers to those questions. Actually, our objective is to ensure that
16 children from deprived backgrounds all have better opportunities and more of them
17 stay in school, and more of them achieve very highly. Now within that we will
18 continually be looking at what are the particular problems of those groups.

19 MAGGIE ATKINSON: Yes.

20 LESLEY SMITH: So you know we do have in school support units and they will tend to
21 be picking up the children with the greatest number of problems. And it may be,
22 you know, we have a very new school just opened in Croydon, which happens to

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1 be the school which is closest to the immigration centre so it has got a massive
2 turnover of children who just get dumped there every year.

3 MAGGIE ATKINSON: Children who are traumatised.

4 LESLEY SMITH: Yes a huge number of kids who come in during the year also whose
5 parents have been re-housed during the year, so the turnover is going to be massive
6 and a very high number of those children who in the past have been excluded
7 because they're coming in with all sorts of problems. You can spend a lot of time
8 saying, you know, in relatively small numbers what's the difference between this
9 group and that group but actually, you know, the game is to get all of those
10 children in school longer, studying longer.

11 MAGGIE ATKINSON: Yes, I mean there were two big reasons for launching this
12 enquiry, the first was, we've always known what we've always known, we've
13 always known that as the numbers overall have fallen, the gaps between who does
14 get and who doesn't get excluded have stayed pretty constant nationally.

15 LESLEY SMITH: Yes.

16 MAGGIE ATKINSON: We've known for about ten years and why have we not done
17 anything about it? But the other big reason was through a piece of research we
18 published in March, the NFER [?]interviewed 2000 children and people, online
19 and through focus groups and eight out of ten of them said, 'yes I've had my
20 learning disrupted and it's dreadful and I really dislike it and it's not fair.'

21 LESLEY SMITH: Yes.

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1 MAGGIE ATKINSON: The same 2000, nine out of ten said, 'you should never exclude,
2 these children need help to get where I am.' And I found that just gobsmacking and
3 I thought I've got to look into this in a bit more depth and detail because that is an
4 amazing piece of research finding from 2000 9 to 15 year-olds all over England, in
5 all different schools. Eight of ten, 'it's awful', nine out of ten, 'please don't
6 exclude them.' What's going on?

7 DEVON HANSON: Can I just follow on with the groups Maggie. I think part of the
8 reason, there are local education authorities unfortunately, you said earlier on when
9 you were director of education, when a child needed a statement you would get it
10 done quickly. Increasingly over the years, we have seen a decline in, you know,
11 the speed of statementing a child. I think the other factor is when a child is moved,
12 is a transitional thing. In a transitional process if secondary schools normally are
13 in tune with what the issues are, the difficulties of a child then we can plan, you
14 know, to that on board. Unfortunately, that communication, that transitional thing
15 and many people have tried all different ways to make transitionals smooth and
16 whatever else. We talk about projects which are very useful and I think Daniel was
17 talking about that and we're doing that as well. Fantastic, we're doing numeracy,
18 literacy and whatever else. But we invariably don't talk about behaviour. You
19 know we don't get our senco's to go to a school to find out from May, April when
20 we know which children are coming to us. Invariably we don't get our senco's to
21 work together to find out what's the story behind this child? Even the LEA may
22 withhold information, not forthcoming and then that child comes into the school,
23 by that time you get to October, you see certain behaviour but it's too late to plan
24 for that child. What I have found which has really eased and helped the children is
25 in fact, assigning someone, specifically from my academy whose job it is from

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1 April to go into these primary schools to find out about anything that we can
2 combat when they come into our schools, when they come into our year seven.
3 That's worked enormously well. It helps the child, it helps us and also, when
4 they're in the school, it's about collaboration you find out the past [inaudible]
5 team. The counsellors in my school, the mentors, the semcos, the inclusion unit,
6 the heads of years, we will all meet and talk about individuals and plan.

7 MAGGIE ATKINSON: Right, okay. Peter?

8 PETER HULLAH: Yes, to build on that you asked about a chain that works across a
9 country in very different areas, which is our experience. The glue that holds us
10 together is the way that teachers work with each other. And we're evidencing
11 more and more a rise in emotional intelligence which produces good practice so
12 that teachers who are facing challenging situations will say, 'right how can we
13 actually get our way out of that?' And if they have allies, colleagues, the kind of
14 fraternity, sorority of a group is really strong for that.

15 MAGGIE ATKINSON: Right.

16 PETER HULLAH: So it works at levels that we've talked about in terms of leadership,
17 middle leaders but actually, teachers getting together and networking we found has
18 been very effective and we're evidencing that across the board. And actually,
19 we're finding that teachers who want to move, will move within the group knowing
20 that they're going within the systems we have in operation, even though you
21 know, we're quite geographically disparate. So that's a real focus for us.

22 MAGGIE ATKINSON: You've all talked about dealing with who come from really quite
23 difficult, challenged and challenging backgrounds and the need to work with the

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1 family as well as them and all the rest of it. You've all also talked about managed
2 moves, protocols and so on. What happens particularly within the Harris chain,
3 you've got a strong model of within the chain movement of child X to school Y
4 and so on, is there ever a point where it just won't work and you almost need an
5 external mediator? How does that work? Because you will not be surprised to
6 hear me tell you that we have talked to local authorities from counties to shires to
7 you name it who all say, 'you need somebody in the middle to hold the moral line
8 for the child that nobody wants.' Now it is clear that you work very strongly with
9 Birmingham city council and it is very compact and dense, and there primary
10 schools and you can shake a stick at most of them. It is very clear that Harris and
11 ARK schools buy particular bits from particular parts of the local authority, at what
12 point if somebody needs to come in and be the arbiter, how does that work? Does
13 it happen?

14 LESLEY SMITH: It does happen when you have a child with particular difficulties or
15 with particular problems actually...

16 MAGGIE ATKINSON: Or has committed a dreadful crime on somebody in the school.

17 LESLEY SMITH: And all of the above you know, but you will generally do that with a
18 local authority case. You know by the time you've gone through the process of a
19 child having a statement or the child has got, you know, none of these things
20 happen alone.

21 MAGGIE ATKINSON: No.

22 LESLEY SMITH: There's always going to be there's a family problem and they all relate.
23 Actually, there's quite a lot of people around the table by the time that happens and

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1 we have been in situations where, I mean I have sat on exclusion panels, where
2 we're all kind of saying, 'actually I'm not sure about this.' And actually, the local
3 authority has said, actually you should take this child out.'

4 MAGGIE ATKINSON: Right.

5 LESLEY SMITH: 'Because we can find him or her a place in such and such a place and
6 that may help for six months.' And the parent might be saying, 'we don't want
7 that', or the parent might be saying, 'I don't want that' because there's a
8 connotation to it. But actually sometimes that is the right the answer.

9 MAGGIE ATKINSON: Yes, alternative provision

10 LESLEY SMITH: That child isn't going to hack it in this school any longer for all sorts of
11 reasons. Something has gone wrong, not because of the school necessarily, not
12 because of the child necessarily, because the pattern of behaviour is such that it
13 sends all the wrong messages to keep trying in one place. But that will very often
14 be, effectively, around the table decision.

15 MAGGIE ATKINSON: Right.

16 DANIEL MOYNIHAN: But even then though, it's a shame to let go of them.

17 LESLEY SMITH: Some of them come back.

18 DANIEL MOYNIHAN: We're really keen to start our own PRUs.

19 MAGGIE ATKINSON: Oh right.

20 DANIEL MOYNIHAN: We want to do that and we've been talking to the DfE about it.

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1 MAGGIE ATKINSON: Okay.

2 DANIEL MOYNIHAN: So even then if they're excluded, we would like for them to be in
3 our own provision and it wouldn't be exclusive to us, it would be open to other
4 schools as well.

5 MAGGIE ATKINSON: Right, provide places, which is under this new – it's an excluded
6 child that you hold onto the responsibility and pay for the place.

7 DANIEL MOYNIHAN: And that's fair enough, we think we could do it better.

8 LESLEY SMITH: And we're similar, we did a pilot which supported two of our schools
9 and we're now looking at, actually what we'll do is have units in every school and
10 some of the schools have got units already. And actually it's similar to the
11 Mossbourne where you are better creating provision for the child within that school
12 as far as you can. And also again, we had a similar situation where schools that are
13 near enough to each other, where you can do a certain amount of moving between
14 those schools.

15 MAGGIE ATKINSON: Gerry?

16 GERRY WALTERS: Just quickly, I was encouraged by knowing that this Inquiry was
17 going on and reading the other report in September was getting a sense that, as you
18 said earlier Maggie, we've always known what we've always known and we know
19 which groups are vulnerable before they arrive, and after they arrive. And in a
20 way, there is a delicate balance here between talking about what we do about the
21 process to make it consistent, fair, transparent, but in a way that is a conversation
22 about quality control because we're talking about outcomes and consequences. I

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1 would very much prefer the debate to shift to one about quality assurance where we
2 mitigate against the risks of it 'going wrong'.

3 MAGGIE ATKINSON: Right okay.

4 GERRY WALTERS: Because that's where the energy I really feel needs to be focussed.
5 So you've got children in school who, if you say 'exclusion' for them it's a
6 consequence. If you say 'exclusion' to staff it's a process that they see is there to
7 protect the majority of learners and themselves. Another colleague said earlier
8 teachers must be able to teach and pupils must be able to learn. But there are a lot
9 of students that I have talked to in our academies who feel they are excluded in
10 their minds because of their perception of how they are perceived, the provision
11 made for them, how they perceive the provision made for other students. They
12 may not articulate or voice that sense of exclusion but those are for me a
13 significant, often silent majority, minority, however you view it. I am pursuing the
14 cause relentlessly on half because they are not voicing those concerns widely and
15 loudly.

16 MAGGIE ATKINSON: Right.

17 GERRY WALTERS: And may not bother to. I am aware of them, from smaller groups to
18 larger groups. a The Equality Act will help. Again, it might be in a quality control
19 sort of way, deal with the outcomes of that and say, 'you are discriminating
20 directly or indirectly in how you offer access to these courses and admissions to
21 post-16,' or whatever.

22 MAGGIE ATKINSON: Right.

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1 GERRY WALTERS: But in many ways that's when the horse has bolted. What I'm
2 saying is there are students that I want to support and move away from the prospect
3 of exclusion as a formal process because we do know what we've always known
4 and we know who is likely to be. I think it was the Centre for Social Justice report
5 in September that talked about doing everything you should to ensure that at a
6 primary, early years' level there was a fundamental competence in communication
7 that all pupils should be checked for. To me it's about mitigating that risk, I think
8 Peter you touched upon it earlier talking about inclusion rather than exclusion.

9 MAGGIE ATKINSON: David?

10 DAVID GOULD: I'd be very concerned about who policies the system. And if it's not the
11 local authority who is going to carry out that role?

12 MAGGIE ATKINSON: The Secretary of State?

13 DAVID GOULD: And kind of linked to that is the proposal to do away with the
14 Independent Appeals Panel and to replace it with some kind of review and I think
15 that very much weakens our position, weakens the position of headteachers. I
16 think it delegitimizes the process, I mean, where are the checks and balances?

17 MAGGIE ATKINSON: Do you have ideas David because the direction is one way in
18 policy and the Act that was passed three weeks ago?

19 DAVID GOULD: Well headteachers and governors make difficult decisions; they use
20 their judgement on behalf of the community. That is frequently challenged and at
21 the end of the day, all you say is you know, 'we're flawed human beings but we've
22 made our best judgement and this is what we believe is the right thing. Please go

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1 to appeal, you know, we will let independent scrutiny make a judgement on this.' If
2 they can turn round and say, 'well you're a law unto yourselves basically, because
3 nobody can overturn your decision.' I think it weakens our authority.

4 MAGGIE ATKINSON: I've not heard that take before. We've had a range of responses
5 on that question as you might have guessed. We have talked to Independent
6 Appeal Panel members who are concerned, but concerned about the child rather
7 than...That's a very interesting take that you feel that what it does is that it closes
8 the door on the necessary scrutiny that you feel as a professional...

9 DAVID GOULD: Absolutely.

10 MAGGIE ATKINSON: Right.

11 DAVID GOULD: I mean I speak to colleagues who agree with me very readily that it is
12 crazy. We can't understand why you would take the appeal away.

13 MAGGIE ATKINSON: If you've done it right, what's to fear?

14 DAVID GOULD: Absolutely.

15 LESLEY SMITH: And actually the implication that you do as well is you force people
16 into a judicial route. So if they haven't got the right to an independent appeal,
17 which has the right to reinstate, you will increasingly have people going to JR, and
18 then it will become very expensive for all participants.

19 DANIEL MOYNIHAN: Isn't it the case that there is an independent appeal though?

20 MAGGIE ATKINSON: No it's a review; under the new Act that was passed three weeks
21 ago it's to become a review panel. And the independent panel members talked

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1 about taking one leg off the stool. At the moment they've got exclusion upheld, so
2 absolute transparent, 'yes you did it right', exclusion not withheld but the
3 relationship is broken so everyone find this child a place, exclusion denied
4 direction to reinstate and that's legally binding. And what the new Act does is to
5 take away the appeal and turn it into a review panel which could say, 'headteacher
6 we strongly recommend you reconsider your decision.'

7 LESLEY SMITH: I mean a question we haven't yet asked, I mean ARK panels are
8 appointed by ARK schools.

9 MAGGIE ATKINSON: Yes.

10 LESLEY SMITH: To look at what an individual school has done. Now, as far as I can see
11 it is entirely within our gift to say actually, 'our panels can continue to be direct.'

12 MAGGIE ATKINSON: It probably is.

13 PETER HULLAH: Yes.

14 MAGGIE ATKINSON: Under the legal configuration.

15 LESLEY SMITH: And I suspect we will.

16 MAGGIE ATKINSON: That's interesting.

17 LESLEY SMITH: I suspect we can retain that for our own panels.

18 ROBIN RICHARDSON: Are you thinking of doing so?

19 LESLEY SMITH: I don't really think we've foreseen that we will no longer have that
20 power so I suspect that we would continue to have it.

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1 MAGGIE ATKINSON: I don't think academies, or academy groups are mentioned on the
2 face of the Act so you're probably right.

3 PETER HULLAH: Within our exclusion policy which is group wide, we have our
4 independent panels which can and will continue to recommend along those three
5 ways.

6 MAGGIE ATKINSON: Right.

7 PETER HULLAH: And we will hold to that. The interesting thing for us is as we've
8 grown, the number of appeals has diminished considerably because we've become
9 more astute in terms of how we as a group have managed working with principals
10 leading up to a permanent exclusion. And we're now very, very reluctant to
11 permanently exclude within the group when there is a parental uncertainty as to
12 why this is actually happening. So we go further and further and further, not being
13 soft on the whole case but actively, really, really, deeply into the community and
14 the parents before we get to a point of an exclusion. And therefore, our
15 independent panel has a mass of evidence before it, actually before you come to an
16 appeal. I think that's different from examples of local authority working where
17 there are some fairly trigger happy people moving around and then appeals are
18 happening all the time. They're long and drawn out and uncertain as to the
19 outcome and hence the revolving door of people away from school for a huge
20 amount of time. Our experience is if there is an appeal pending, a person, a boy or
21 a girl can lose a term, a term and a half, two terms schooling at the drop of a hat.

22 JOHN CONNOLLY: Sorry to interrupt.

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1 MAGGIE ATKINSON: We're going to have to draw this to a conclusion but I would
2 really enjoy keeping the dialogue going if you and your folk can [inaudible].
3 David do you want to make a closing...?

4 DAVID GOULD: I'm just concerned about the case of free standing schools and
5 academies that don't belong to a chain, they choose not work with the local
6 authority and we've heard a lot about, or something about unfair practices that go
7 on. How is that going to be policed?

8 MAGGIE ATKINSON: So that's into the new generation?

9 LESLEY SMITH: Yes the non-multi-sponsor academies.

10 DAVID GOULD: And taking away the appeals as well.

11 DANIEL MOYNIHAN: It seems reasonable to get Ofsted involved in this, doesn't it? So
12 if a school has a number of these where a review panel has said, 'actually we need
13 you to reconsider these' then that is something that Ofsted should consider.

14 MAGGIE ATKINSON: Our understanding is that that very forensic examination of a
15 school's stats will be part of the new framework. So you may well be absolutely
16 right Daniel, it will be [inaudible].

17 DAVID GOULD: But that worries me as well because it then links into the accountability
18 framework and the fact that statistics look in a certain way at a certain time raises
19 questions that a good school would be looking at. It doesn't necessarily tell you
20 necessarily what the answer is, I doesn't tell you that anything bad is going on and
21 it also potentially, does encourage schools that are that way inclined to take actions
22 that mean those statistics won't look so bad.

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1 MAGGIE ATKINSON: They don't have to be academies to do that David.

2 DANIEL MOYNIHAN: The statistics just say a question needs to be asked, someone can
3 look at that.

4 JANET MOKADES: That is what Ofsted will do and that is what Ofsted has always done.
5 As long as those figures are available they have always been part of the key data
6 set that HMI that knew what they were doing would look at before they went into
7 the school and started formulating their hypotheses. That's not fundamentally
8 going to change.

9 MAGGIE ATKINSON: Folks an hour was never going to be long enough for a discussion
10 this sparky and this useful. We are in and out of schools still and we will not close
11 the evidence books until about mid-January but then they will have to tear me
12 away and shut me up because we've got to write the report. We're aiming for
13 publication by about 19 March, probably to a parliamentary launch with a member
14 of the Select Committee offering to host us in Portcullis House. And we would
15 very much enjoy I think maintaining the dialogue because the more academies
16 there are, the more actually the system is going to turn as the wise holders of all
17 sorts of information in a system, to which some are joining as newcomers. And
18 they will look different, they are inevitably going to look different because all of
19 them have not done what you've done. Panel I don't know if you've got closing
20 remarks or closing questions but please do keep in touch with us is what I'll say
21 and thank you very much for coming this afternoon.

22 [End of hearing]

23

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