

1

Wednesday, 4 May 2022

2

(10.00 am)

3

LADY SMITH: Good morning and welcome back to the case study

4

in which we're looking into foster care provision in

5

Scotland.

6

As was indicated yesterday, I think we're about to

7

move to Professor Kendrick's evidence. Is that right?

8

MS INNES: Yes, that's right, my Lady.

9

LADY SMITH: He's here? Ready?

10

MS INNES: Yes.

11

LADY SMITH: Good. Let's go.

12

Professor Andrew Kendrick (affirmed)

13

LADY SMITH: As an old hand, you know the ropes here --

14

A. Yes.

15

LADY SMITH: -- although we're into a different subject

16

matter today. But, as ever, Professor Kendrick, if you

17

have any queries or you want a break, just let me know.

18

A. Sure.

19

LADY SMITH: Whatever works for you works for me.

20

A. Thank you.

21

LADY SMITH: If you're ready, I'll hand over to Ms Innes and

22

she'll take it from there.

23

A. Yes.

24

LADY SMITH: Ms Innes, when you're ready.

25

Questions from Ms Innes

1 MS INNES: Thank you, my Lady.

2 Professor Kendrick, I understand that you previously
3 gave evidence on 3 April 2019?

4 A. Yes.

5 Q. At that time you gave evidence about your knowledge and
6 experience and your current position. If I can take you
7 briefly to an updated CV which you've prepared for this
8 case study, it's at WIT-3-000001146, and I think in
9 addition to what you said on the last occasion, if we
10 can move to page 3, please, we see that most recently
11 under "Professional contributions since 2001", you've
12 been an adviser to Scottish Parliament Education and
13 Skills Committee in relation to the scrutiny of the
14 Redress bill?

15 A. Yes, that's correct.

16 Q. Other than that, I think your CV remains generally the
17 same as it did when you last gave evidence?

18 A. Yes, I suppose the major thing was the submission of the
19 full report.

20 Q. Yes. On the last time you gave evidence about your
21 report, which hadn't been finalised. I understand that
22 you gave evidence up until 1995 essentially.

23 A. Yes.

24 Q. Since then, your full report has been submitted and
25 published by the Inquiry?

1 A. That's correct.

2 Q. I think in relation to that first part of your report,
3 so up to 1995, it remains generally the same in terms of
4 the substance, although there was perhaps some
5 reordering of sections and such like?

6 A. Yes, that's right. There was some reordering. There
7 was some -- there were some additions in relation to
8 foster care and other services, but the general gist of
9 the report was the same in terms of the conclusions,
10 particularly about foster care.

11 Q. Okay. Thank you very much, Professor. Today what
12 I would like to do is -- we will come to your report in
13 a moment ... well, maybe in a few moments -- and we will
14 look at the 1995 to 2014 period.

15 A. (Witness nodded)

16 Q. Before then, I'd like to look at some reports that you
17 did back in the early 1990s for Tayside, and I think --
18 you don't mention them in your CV because they were
19 confidential reports for Tayside Regional Council?

20 A. That's correct.

21 Q. If we can look first of all, please, at ANC-000001078,
22 and perhaps if you're more comfortable, you could
23 maybe -- you can put your big folders to the side at the
24 moment, if that would make you more comfortable.

25 It will be some time before we get to the second of

1 the folders.

2 If we look at ANC-000001078, we see that this is
3 a report headed, "Predictors of abuse in foster care".
4 It was a report by yourself and Stewart Brodie for
5 Tayside Region social work department in October 1995.

6 I think if we go on to page 2 of that report, you
7 set out the background. Can you explain how it came
8 about that you were instructed by Tayside to undertake
9 this work?

10 A. Well, at that point in time I was working at Dundee
11 University. I was involved in a major study of
12 residential and foster care, which included Tayside
13 Region as one of the councils. I'd been involved in the
14 Skinner review of residential childcare and around this
15 time I was also involved in the Kent Children's
16 Safeguards Review. So in a sense I'd been doing work
17 around issues to do with abuse in care, but was also
18 working as a researcher on another project in Tayside,
19 and on that basis I was approached to do this study.

20 Q. Okay, thank you. We're going to come back to Kent and
21 some of the other issues that you mentioned a wee bit
22 later on.

23 A. Yes.

24 Q. You were approached by Tayside in the context of your
25 involvement in this area. You mention here that Tayside

1 had a concern about instances of abuse in foster care.
2 You say at paragraph 1.1:
3 " ... a number of actions were taken to address this
4 concern ... a multidisciplinary group was called
5 together involving representatives from social work,
6 police and child psychiatry. In preparation for this
7 group meeting, a paper was prepared [I think by
8 yourself] focusing on child sexual abuse in foster care
9 and issues of fostering assessment."
10 A. Yes.
11 Q. I think that was a literature review --
12 A. That's right, yeah.
13 Q. Okay. We'll come back to this report, but if we can
14 look briefly at your literature review, please, it's at
15 ANC-000001016. I think we see here that this is headed:
16 "Fostering assessment in the context of child sexual
17 abuse: a literature review."
18 The focus at this point was on sexual abuse rather
19 than abuse in a broader sense?
20 A. Yes. There was a particular case, a high-profile case
21 at that time, of sexual abuse in foster care and I think
22 that sparked initially the focus on sexual abuse.
23 Q. Was that a case in Tayside or was it a case somewhere
24 else?
25 A. That was a case in Tayside.

1 Q. Okay. If we look on to page 2, paragraph 1.1, we see
2 that you say that the paper "... reviews the literature
3 on assessment of foster families in the context of child
4 sexual abuse by foster carers and their children".
5 There you're talking not only about abuse by the carer
6 but also by perhaps other members of the foster carer's
7 family; is that what you mean?

8 A. Yes.

9 Q. You say that the paper covers the available evidence on
10 the incidence of abuse in foster care, you discuss
11 factors associated with child sexual abuse. You say:
12 "The literature on this topic is vast and the review
13 does not claim to be comprehensive."
14 Is that referring to the literature on child sexual
15 abuse?

16 A. That's correct, and also the international literature as
17 well.

18 Q. As opposed to perhaps literature specifically on abuse
19 in foster care?

20 A. That's right.

21 Q. Okay. Then you say:
22 "Rather it raises the difficulties and problems
23 associated with predicting child sexual abuse or
24 identifying potential abusers."
25 A. (Witness nodded)

1 Q. Was that one of the concerns that the council had at the
2 time?

3 A. Yes, particularly in the context then of assessment of
4 foster carers is to what extent is it possible to
5 actually predict whether someone potentially could go on
6 to abuse a child?

7 Q. You say that you look at issues "concerning the
8 fostering of sexually abused children, particularly the
9 issue of sexualised behaviour and possibilities of
10 further abuse".

11 A. Yes.

12 Q. Then you go on to talk about:

13 " ... allegations of abuse made against foster
14 carers and the need for clear policy and procedures [to
15 be] made known to all foster carers."

16 At the end you talk about training.

17 I don't want to go through this report in detail,
18 because I know it's obviously some time since you
19 prepared it, but if I can just take you to a couple of
20 paragraphs, please.

21 At page 7, first of all, at paragraph 3.8, you say
22 there:

23 "The main purpose of this brief review has been to
24 highlight the problems in using factors linked to sexual
25 abuse of children as predictors."

1 Then you refer to a paper by Dingwall from 1989

2 questioning:

3 "... the validity of attempts to establish
4 predictive instruments of child abuse and highlights the
5 statistical fallacy that where 'the failure to recognise
6 that, when one is dealing with a phenomenon which has
7 a low rate of prevalence, even the best predictors yield
8 a high and probably unacceptable level of errors'."

9 Is that essentially the conclusion that you drew
10 from looking at the literature, that it was difficult to
11 predict?

12 A. Yes, it's difficult to predict, but I think drawing on
13 other issues, nevertheless the potential or the
14 possibility of sexual abuse in foster care or in other
15 care settings needs to be highlighted through training,
16 and that by doing so there's the potential to reduce the
17 risk. In terms of -- it's flagging up to potential
18 abusers that this is an issue that will be or could be
19 addressed.

20 LADY SMITH: Professor Kendrick, I'm reminded quite acutely
21 of some of the issues we discussed here in March when
22 there were two days when we had what we called
23 a round-table session, with six psychologists, and
24 Martin Henry and Stuart Allardyce all talking about
25 various aspects of what had been learnt or not learnt

1 about the psychology of abusers.

2 One of the things that was very striking was, if you

3 like, the idea that abusers don't come with a label --

4 A. That's right.

5 LADY SMITH: -- saying, "I'm a potential abuser", they come

6 in all shapes, forms and types of personality and

7 psyche. I can see that whilst in the institutional

8 context one of the important features we focused on was

9 the chance of prevention through culture and

10 establishing an institutional culture --

11 A. Yes.

12 LADY SMITH: -- of a certain type, watching out for anything

13 that just doesn't feel quite right. You don't have that

14 in the foster setting, I suppose.

15 A. Absolutely.

16 LADY SMITH: You've just started talking about perhaps

17 a chance of instilling in the mind of the foster parents

18 that this matters --

19 A. Yes.

20 LADY SMITH: -- but you're one step removed from the

21 environment. Is that a problem?

22 A. Absolute -- and we'll come onto this in terms of some of

23 the reports that repeat, that one of the issues about

24 foster care is that isolation, is the fact that it is

25 private. It is within the family home. And you don't

1 have -- and children and young people would not have the
2 same range of opportunities, say, to talk about abuse,
3 but then the perpetrators can manage that setting in
4 a much more controlled way.

5 LADY SMITH: And you don't have the daily opportunity of
6 influencing the carers with the ethos and principles of
7 the institution.

8 A. That's correct, yes.

9 LADY SMITH: Ms Innes.

10 MS INNES: Thank you.

11 If we can look on to page 13, we see here a section
12 where you've looked at preparation and training of
13 foster families. At paragraph 7.1 you say:

14 "The training and support of foster carers has been
15 stressed as vital."

16 Then I think you look at various reports and
17 training courses which were run.

18 At paragraph 7.3, just scrolling down that page, you
19 refer to Devine and Tate running an introductory
20 training course for foster carers in Strathclyde, and
21 then you talk about what they say the sessions involved.

22 At paragraph 7.4, just at the bottom of the page,
23 you say:

24 "While the Merton training sessions included foster
25 fathers, the Strathclyde training only involved foster

1 mothers."

2 If we go over the page to page 14 and paragraph 7.6,
3 you conclude:

4 "Since most sexual abuse in foster families is
5 carried out by foster fathers, it is also crucial that
6 they are included in preparation and training about
7 abuse and its effects on the victim."

8 A. Absolutely.

9 Q. That conclusion, I think, arose from the studies that
10 you'd been looking at that had happened at that time and
11 obviously you refer to that Strathclyde training, which
12 only provided training --

13 A. That's right. In a sense, the Strathclyde training was
14 breaking ground in that it was training. But it was
15 significant that it was focused on foster mothers only.

16 Q. In your conclusion, so just continuing down on this same
17 page, at paragraph 8.1 you note:

18 "Given the difficulties ... identified in assessment
19 and review procedures being able to screen out all
20 abusive families, the emphasis [as I think you've just
21 said in your evidence] in relation to selection,
22 training and retention of foster carers must be that
23 child abuse, including child sexual abuse, is high on
24 the agenda of the social work agencies."

25 A. (Witness nodded)

1 Q. So even although the literature review was about sexual
2 abuse, we see here that you here refer to abuse more
3 generally.

4 A. Yes.

5 Q. Why did you do that?

6 A. Probably in the context that child sexual abuse can be
7 linked with other forms of abuse as well. But also just
8 in terms of the idea that simply to focus on child
9 sexual abuse, although that was the purpose of the
10 paper, I thought it was important to broaden that out in
11 terms of other forms of abuse as well.

12 LADY SMITH: Professor, I may have mentioned this when you
13 previously gave evidence, but I've heard from some
14 people who as children were in residential care that in
15 a way the worst thing that happened to them wasn't the
16 sexual abuse, it was the emotional abuse in some
17 respects.

18 A. Absolutely, absolutely.

19 This take is a bit at the side, but I've been
20 involved with survivors of abuse who have been quite
21 concerned by the fact that particular inquiries have
22 focused solely on child sexual abuse -- the Royal
23 Commission in Australia, for example -- and feel that
24 the abuse that they suffered, physical and emotional
25 abuse and neglect in a sense has been pushed to the side

1 because of that. I think this idea of almost
2 a hierarchy of abuse, that sexual abuse is in some way
3 the worst, I think you have to be very careful about how
4 you approach that.

5 LADY SMITH: Yes, Ms Innes.

6 MS INNES: Looking on at your conclusions here, you say, as
7 you've said at paragraph 8.1:

8 "This must incorporate the fact that child abuse and
9 child sexual abuse takes place in foster care."

10 So emphasising there that there must be
11 acknowledgement that it happens.

12 A. (Witness nodded)

13 Q. Then you go on to paragraph 8.2 to make some
14 recommendations, first of all in relation to assessment,
15 and you suggest that it must be addressed in the
16 assessment process. You say that assessment must deal
17 with issues of sexuality and power relationships within
18 the family. Then you say:

19 "All members of the family, including the foster
20 carers' children, must be included in the process of
21 assessment."

22 Why did you see that as being something that was
23 important?

24 A. Foster carers' children can potentially be abusers as
25 well, and there is evidence for that so it's important

1 that they are included in that process.

2 Q. Over the page on page 15 at paragraph 8.3 you have
3 a number of bullet points in relation to training. So
4 training the foster carers, training all of the members
5 of the foster family and training in relation to social
6 work staff as well. I think you've already highlighted
7 that that was one of the areas that you thought had to
8 be emphasised?

9 A. Yes.

10 Q. Then at paragraph 8.4 you have a heading, "Investigation
11 of allegations of child sexual abuse", and you
12 reference:

13 "Clear policies and procedures should be formulated
14 for the investigation of allegations of abuse and foster
15 carers should know the policy and procedures and support
16 systems should be in place for them in the event that
17 allegations are established."

18 Why did you set out those recommendations?

19 A. There was a clear literature from the perspective of
20 foster carers on the impact of allegations of child
21 sexual abuse at that time and that's covered earlier in
22 the report. Then these recommendations are drawn from
23 that literature.

24 Q. Then you refer to again foster carers being kept
25 informed and then you say:

1 "Removal of children should not take place in
2 a precipitate, unplanned way."

3 Again, is that something that you drew from the
4 literature?

5 A. That's correct, yes.

6 Q. Then:

7 "Where allegations are upheld, support should be
8 given to foster families as it would be to other
9 families."

10 Again, why did you emphasise that?

11 A. I think that it's important that -- or from the
12 literature there was concern that if there were
13 substantiated cases of abuse, that foster families then
14 felt like being stranded in a sense from social work
15 support, because the focus would be often on the child
16 and support for the child, but less so on the foster
17 family. And I think particularly when this was written,
18 back in the 1990s, in terms of the ways in which foster
19 families might be supported were -- it was more frequent
20 that the same social worker will be supporting foster
21 families as well as the child, so in a sense there was
22 potential for conflict in that situation.

23 Q. If we can move back, please, to the report that we
24 looked at earlier, ANC-000001078. Again if we can look
25 at page 2. So in paragraph 1.1, which we've already

1 looked at, you make reference to your literature review
2 and then you say that a meeting took place and there was
3 a training event. Can you recall if you attended
4 a training event to speak about your literature review?
5 A. Yes. Yes, I did.
6 Q. Then you say at paragraph 1.2:
7 "Tayside social work department considered that it
8 was important to collate information on the scale of the
9 problem and to study instances of abuse in foster care
10 to identify whether any patterns or common features were
11 present. The authors were commissioned to carry out
12 a case study of files for all instances of substantiated
13 abuse in foster care since 1 January 1990."
14 A. Yes.
15 Q. If we go on to the next paragraph, you say:
16 "The first stage of the study involved the
17 identification of instances of abuse in foster care in
18 Tayside Region in the period 1 January 1990 to
19 19 September 1994 ..."
20 That was the period that you and your colleague
21 looked at?
22 A. Yes.
23 Q. How did you go about undertaking the exercise that you
24 were asked to do?
25 A. Initially then the pro forma was sent out to social

1 workers across Tayside Region and they were asked to
2 return information for those cases where there was
3 a strong suspicion of abuse in foster care. On the
4 basis of that information, we looked and selected
5 instances to then take forward and do the case file
6 study.

7 Q. You didn't look at files yourselves initially?

8 A. Not initially, no.

9 Q. Not initially, okay. But once you had the pro formas,
10 which you say at paragraph 2.1 requested basic
11 information on the child or young person, the carer, the
12 date and nature of the incident, initial action taken,
13 whether abuse was substantiated and the outcome or
14 action taken.

15 A. Yes.

16 Q. Then if we go onto the next page, page 3 at
17 paragraph 2.2, you say:

18 "This initial survey identified 69 incidents
19 involving 60 children and young people."

20 You might not know the answer to this, but do you
21 know if the social workers were just completing the
22 pro forma from their memory or were they actually going
23 through files and then completing the pro forma and
24 providing it to you and your colleague?

25 A. I don't know that. We were just on the receiving end of

1 the information.

2 Q. Okay. Then you say that you then narrowed it down, on

3 the basis of information you asked some further

4 information, and you said that you identified 34

5 incidents involving 29 children to be included in the

6 case file study.

7 A. Yes.

8 Q. At paragraph 2.3 you set out what the case file study

9 involved, looking at the child's file and the foster

10 carer's file for each incident of abuse. Was that work

11 carried out by you or your colleague actually looking at

12 the files?

13 A. Yes, that's correct. We went out to and located the

14 files and went through them, which was an arduous

15 process.

16 Q. You had set out, I think, an analysis tool that you

17 devised to enable you to, I think, extract relevant

18 material from the files?

19 A. Yes.

20 Q. You list there the sorts of material that you extracted.

21 For example, under the child and young person, one of

22 the things that you noted was details of previous

23 receptions into care and details of previous

24 placements --

25 A. Yes.

1 Q. -- and issues prior to placement. Why did you look at
2 that sort of material?

3 A. Again it was to look at patterns and to see whether, you
4 know, there were issues about previous instability of
5 placements in relation to particular incidents, whether
6 there was a pattern in relation to individual children
7 through different placements, which we might be able to
8 dig out from case file studies. Because it may be
9 that -- and one of the issues is that, you know, with
10 the turnover of social workers, it doesn't necessarily
11 mean that they know the past of the child in detail.

12 So it was to try and look at the care career of that
13 child and see whether there were issues there.

14 Q. Then just below that, you refer to certain issues that
15 you looked at in relation to the incident of abuse, the
16 nature of the investigative process and the outcomes.

17 A. Yes.

18 Q. Over the page, on page 4 at the top, you also looked at
19 relevant information in relation to the foster carers
20 and the last two bullet points there, you looked at the
21 number and pattern of previous placements with foster
22 carers?

23 A. (Witness nodded)

24 Q. Why was that something that you thought was relevant to
25 bear in mind?

1 A. Well, again, it's to see whether there were particular
2 types of placement with foster carers were linked to --
3 linked to issues of abuse. Were they short-term foster
4 carers, were they long-term foster carers? It was to
5 look at those issues in relation to foster carers.

6 Q. The final bullet point, "Potential stress factors",
7 unemployment, illness, behaviour of abused child,
8 et cetera. Why did you identify those?

9 A. Because from the literature review these were identified
10 as some of the factors in child sexual abuse and other
11 forms of abuse is to do with stress on the foster family
12 itself.

13 Q. Okay. At paragraph 2.5 you note there a definition of
14 abuse. You note at the end:

15 "For this case file study, all substantiated
16 incidents involving physical or sexual maltreatment, or
17 the neglect of children were included whether or not
18 those were considered to be abusive."

19 Why did you take that approach?

20 A. At the time there was a policy of no corporal punishment
21 or no smacking in Tayside. Now, in the country as
22 a whole there wasn't a similar prohibition on smacking,
23 so whether to smack a child is considered abusive at
24 that time is in a sense questionable.

25 Q. Then over the page at paragraph 276, you say:

1 "Detailed analysis of the case files revealed that
2 some of the 34 cases were not, in fact,
3 substantiated ... and were therefore excluded from the
4 study."

5 Can you recall what you mean by "substantiated"?

6 A. Where the social work department would have said that
7 abuse did occur in that situation.

8 Q. Would it also include cases where somebody had admitted
9 to abuse, for example?

10 A. Yes.

11 Q. Why did you only look at substantiated incidents?

12 A. Because in a sense that was the remit of the study and
13 to draw it wider, we would have had to ask a whole
14 different set of questions at the start of the study.

15 Q. You'd have essentially had to investigate the
16 allegation?

17 A. All allegations, yes.

18 Q. Okay. Then after this exercise, at paragraph 2.6 you
19 note that 24 incidents were included involving 22
20 children and young people and 13 foster families were
21 involved in these incidents.

22 A. (Witness nodded)

23 Q. You then go on to give some details of the children and
24 where they were, I think probably drawing from the tool
25 that you mentioned earlier?

1 A. Yes.

2 Q. If I could ask you to move on, please, to page 7. At
3 paragraph 4.3, you say there:

4 "It was noted above that many of the children had
5 experienced a number of moves in care and 13 of the
6 placements in the study came about because previous
7 foster placements had broken down. In two of these
8 cases, the child or young person had been abused in the
9 previous placement."

10 You say:

11 "It is therefore not surprising that most of the
12 children exhibited a range of difficult and challenging
13 behaviours. Records indicated that there were no issues
14 concerning behaviour in relation to only five of the
15 children or young people."

16 Why did you think it was relevant to note, first of
17 all, the number of moves in placement?

18 A. The number of moves in placement reflect instability in
19 the care system. These are traumatised children and
20 young people and the fact that they are in placements
21 which then break down, disrupt for whatever reason, can
22 add to the trauma that these children and young people
23 experience.

24 Q. Then you mention the impact, they're exhibiting
25 difficult and challenging behaviours. How is that

1 relevant to looking at incidents of abuse?

2 A. Because in some instances those will be the triggers for
3 the abuse that took place. I mentioned smacking. It
4 may be that in response to difficulty or challenging
5 behaviour, foster carers have smacked a child or in
6 another way physically manhandled a child and such like,
7 so it's one of those factors in terms of abuse.

8 Q. If we can move on again, please, to page 8 of your
9 report and to paragraph 5.3, where you talk about how
10 the incident of abuse was disclosed. You say:

11 "12 of the cases were discovered when the children
12 involved disclosed the incident. In five cases the
13 child or young person told their birth mother. In five
14 cases their schoolteacher or other education staff. In
15 one case their social worker. In one case their new
16 foster carer."

17 Why did you note that evidence?

18 A. Because again I think it comes back to some of the
19 issues about isolation in foster care. I think it's
20 important that in terms of the opportunities that
21 children and young people have to identify abuse that
22 they've suffered, and this, you know, shows that in
23 a sense the social worker was only informed in one of
24 the cases. In five cases it was teachers and -- just
25 that idea that there needs to be a broader look at how

1 abuse might be identified in foster care.

2 Q. Moving on to page 10 and to paragraph 5.9, you note
3 there the response to abuse:

4 "The child remained in placement following eight of
5 the incidents, all involving smacking, slapping or other
6 physical mistreatment of the child. The child was
7 removed from the placement in 12 cases and in the
8 remaining four cases the child had already left the
9 placement, either returning home or moving to another
10 foster or adoptive placement."

11 Again, why did you note what had happened after the
12 allegation was made?

13 A. Because again it's important to look at the context in
14 the sense that the abuse of children in either
15 residential or foster care doesn't mean that
16 automatically the placement has broken down. It means
17 that a placement can be supported and kept going and the
18 foster carers and child or young person can be supported
19 in what is overall a positive placement, even though
20 an incident of abuse has happened.

21 Q. Could I move on again, please, to page 11,
22 paragraph 6.3. You're dealing here with the assessment
23 process that the carers had undergone and you say:

24 "Where details were available, carers had undergone
25 comprehensive assessments involving multiple interviews,

1 medicals and police checks."

2 You then say:

3 "The reviewing process, however, appears to have

4 been more ad hoc. In relation to ten of the foster

5 carers it was possible to ascertain information on

6 fostering reviews. For most of these [seven] only one

7 fostering review had been held. One voluntary agency

8 carer was not reviewed (at that time it was not the

9 agency's practice to review permanent carers). One

10 carer had been reviewed twice and one three times.

11 A number of these reviews were held following on from

12 the incidents in the [case] study."

13 Why did you note issues with the reviewing process?

14 A. Because again I think it's important in terms of the

15 potential isolation of children in foster care that

16 where there is a system to review the foster carer's

17 behaviour, the quality of their care and such like, it's

18 important that this is done on a regular basis. And

19 this showed that it wasn't at that time.

20 LADY SMITH: Are you using the word "review" here almost in

21 the sense of regular contact --

22 A. Yes, but --

23 LADY SMITH: -- regular checks?

24 A. -- a formal process in terms of the review. To be

25 looking at the placement, to be looking at the

1 relationship of the foster carer to the child.

2 One, I can't remember whereabouts it was in the
3 report -- you may be coming onto it -- was that there
4 had been significant changes within the foster family,
5 either unemployment or serious illness, which in a sense
6 weren't picked up or weren't focused on, but would have
7 been had there been a regular process of review.

8 LADY SMITH: Had you in mind the sort of review that would
9 involve speaking to the children?

10 A. One would hope that the social workers are speaking to
11 the children on a more regular basis, but, yes, if that
12 can be part of the process, that would be important.

13 LADY SMITH: Thank you.

14 MS INNES: Could I ask you, please, to look on to hopefully
15 the part that you just referred to in page 12,
16 paragraph 7.4. You say here:

17 "While this study was not an audit of practice, and
18 it is always easier to make comment on and criticise
19 practice in retrospect, a number of issues in the cases
20 need to be raised. In a number of cases, it was
21 acknowledged that placements were difficult and that
22 carers were looking after children and young people
23 whose behaviour was demanding and challenging. Some of
24 the incidents were in direct response to the behaviour
25 of children or young people."

1 Is that the type of example that you made before --

2 A. That's right.

3 Q. -- about physical ... essentially corporal punishment?

4 A. Yes.

5 Q. You then say:

6 "Additional stress factors were only mentioned in
7 case files in relation to two of the foster families.
8 One was looking after the foster carer's father, who was
9 seriously ill, and the fostering review following
10 incident of abuse decided that additional support was
11 needed because of this situation."

12 I think that was --

13 A. Yes.

14 Q. -- one example where there was an additional stress
15 factor.

16 If we go over the page, please, to page 13,
17 paragraph 7.5:

18 "The other case was more serious. A child in the
19 care of the foster carers died and following a brief
20 respite the carers continued fostering. The trauma of
21 this child's death affected the foster mother's health
22 over the following two years, leading to a short period
23 of hospitalisation. In this period the foster father
24 was made redundant. Support was given to the family
25 (home help and support from the community psychiatric

1 nurse). While a report states that at no time
2 throughout this period was there a concern for the
3 children in their care, there is mention in the file
4 that concern was being expressed as to whether this
5 family should be fostering and that the carers should be
6 reviewed. The case file also reveals that the foster
7 father had specifically expressed concern at the idea of
8 being alone in charge of girls. In March 1994 there was
9 a disclosure of sexual abuse. Given the circumstances
10 of this case, comprehensive fostering reviews should
11 have been undertaken at critical points."

12 I think that was maybe the example that you --

13 A. That's right, yes. Not just that there should be
14 reviews at, you know, 12-monthly periods or such like,
15 but where there are significant changes in
16 circumstances, there should be a look in detail at what
17 the impact of those changes would be.

18 Q. You then say at paragraph 7.6:

19 "Another issue concerns the importance of drawing
20 together information which might indicate a pattern of
21 concerns."

22 Then you refer to some examples in relation to that
23 and at the end of that paragraph you say:

24 "Although it is difficult to say based solely on
25 a case file study, we believe that questions need to be

1 asked about whether information on the different
2 incidents [that you've referred to] was brought together
3 and considered in a structured way."

4 What was the issue here in relation to bringing
5 together material?

6 A. Case files are large, and going through a case file of
7 a child or young person who has been in care for
8 a number of years in different placements, as I said, is
9 an arduous process. Because in a sense the way often
10 that case files are put together isn't done in a way
11 which then makes it easy for information on particular
12 issues to be drawn out. So we in those case files
13 literally had to read the whole of the case file,
14 everything, to try and identify the specific bits of
15 information in relation to the incidents of abuse.

16 Given that there was no clear -- you know, it was
17 very difficult to get that clear picture, and therefore,
18 you know, we felt it important that information on such
19 serious issues should be drawn out and together so
20 that -- either as a separate part of the file or
21 whatever -- any patterns or issues which could change
22 over time, that those can be easily identified.

23 LADY SMITH: Was this an era where all case files were hard
24 copy?

25 A. Yes.

1 LADY SMITH: That would mean only one person could look at
2 a child's case file at a time?
3 A. That's right. In fact one of the case files was
4 missing, because there was another investigation of
5 abuse going on.
6 LADY SMITH: Whereas to do the best job for the child, it
7 might be much better if a range of people were able at
8 any time to get access, nowadays electronically --
9 A. Absolutely, yes.
10 LADY SMITH: -- to the child's file, with appropriate
11 instances and matters flagged up in a particular way
12 electronically.
13 A. Yes.
14 LADY SMITH: Thank you.
15 MS INNES: I suppose what you said, Professor, is an issue
16 in the context that you mentioned of social workers
17 changing for the child.
18 A. (Witness nodded)
19 Q. But also perhaps a more senior member of the team
20 reviewing a child's file to see a pattern of
21 behaviour --
22 A. Yes.
23 Q. -- that might not be immediately apparent to a person
24 that's perhaps been working on it and many other files
25 at the same time.

1 A. That's right.

2 Q. If we can move on again, please, to your conclusions and
3 recommendations, page 14, at paragraph 8.1 you say:

4 "It is clear that in a small-scale study such as
5 this it is not possible to make definitive statements
6 about predictors of abuse. However, a number of
7 important issues have been raised about abuse in foster
8 care."

9 The first, paragraph 8.2, you say:

10 "There was not always consistency in response to an
11 allegation ..."

12 You refer to, I think, some incidents of physical
13 abuse where different approaches had been taken.

14 A. (Witness nodded)

15 Q. Either going so far as involving the police or not
16 informing the police at all and dealing with matters
17 informally.

18 A. Yes.

19 Q. You say at the end there:

20 "It is important that clear criteria are laid down
21 for the action to be taken in response to allegations of
22 abuse and that procedures of investigation and follow-up
23 action are carried out in a consistent manner."

24 A. Yes, and I think that is both in terms of the child or
25 young person and also in terms of the foster carers, so

1 that there is clear consistency.

2 Also so that clear expectations can be set out in
3 terms of what is acceptable and what is not acceptable
4 and what the response is going to be.

5 Now, obviously individual cases have to be taken
6 within context, but in terms of that comparison, it can
7 be seen that one could argue that the more serious case
8 of abuse had much less intervention in terms of what was
9 done.

10 Q. You're referring there to there was a case where there
11 was smacking and hitting children on a number of
12 occasions?

13 A. Yes.

14 Q. I suppose in terms of consistency, the question might
15 be, well, how do you achieve that? Do you set that at
16 Local Authority level? Do you set that at national
17 level?

18 A. I think there has to be clear guidance at national
19 level, but then within Local Authorities there needs
20 also to be consistency at that level as well in terms of
21 the practicalities of how national guidance will be put
22 into effect.

23 Q. I suppose in terms of checking whether consistency is
24 achieved or not at local level, one might do that
25 through the reviewing process or through a review by

1 a more senior member?

2 A. And through child protection committees.

3 Q. Okay. Could we go on, please, to the next paragraph,

4 8.3. You mention the issue in relation to case files,

5 they must contain full and up-to-date information, and

6 the issue that you've suggested drawing together

7 information, possibly in carers' files, to ensure that

8 information can be presented to foster carer reviews in

9 a structured and coherent way?

10 A. Yes.

11 Q. That's the issue that you've just referred to.

12 If we go over the page, please, to page 15,

13 continuing the same theme at paragraph 8.4, you refer to

14 the need for foster carer reviews to be held regularly

15 and support and training given to foster carers. Then

16 you note a specific need for a review where there is

17 a significant change?

18 A. Yes.

19 Q. So not just the annual review as you suggested a moment

20 ago?

21 A. That's right, yes.

22 Q. You refer then back to your literature review and then

23 if we go on to the bottom of that page, "Assessment and

24 review", you then draw out the bullet points from your

25 literature review --

1 A. That's right.

2 Q. -- with these points that we've just gone through that
3 you've seen from --

4 A. Yes.

5 Q. -- the research that you did in practice.

6 I think at paragraph 8.9 on page 17 you note:

7 "The study has shown that those children and young
8 people involved in incidents of abuse or potential abuse
9 have already experienced a great deal of instability
10 both within their ... home and in the care system. It
11 is therefore of paramount importance that every effort
12 is made to protect them from further abuse in the care
13 system."

14 I think, as we said earlier, this was a confidential
15 report --

16 A. Yes.

17 Q. -- given to Tayside social work department. Do you know
18 what happened with it after you had submitted this
19 report?

20 A. Not in terms of the specifics of the report, but at the
21 same time, as I mentioned, the Kent Children's
22 Safeguards Review was ongoing. I was involved in that
23 in terms of doing the literature review, so I was in
24 a sense drawing on some of the literature review in
25 this, and although I couldn't draw on the specifics of

1 this report, in general terms it matched up with the
2 broader literature review I did for Kent and with Kent's
3 recommendations in terms of abuse in foster care,
4 because foster care was, you know, specifically included
5 in his review.

6 Q. Okay.

7 A. What was done with this would probably very much have
8 been tied up with the response of the Local Authority to
9 the Kent Children's Safeguards Review.

10 Q. Thank you, Professor. I'm going to move away from these
11 reports now, but thank you for going through them. As
12 I said, I know it's some time since you undertook that
13 work.

14 A. But I still remember going through those case files.

15 Q. Before we go to your report itself, I would like to take
16 you to another report that you did to look at some
17 numbers of children in foster care nationally. If we
18 could look at SGV-000023967.

19 We see, if we scroll down, that this was a scoping
20 project that you undertook in relation to the National
21 Confidential Forum with Moyra Hawthorn, looking at
22 children in care in Scotland from 1930 to 2005.

23 A. Yes.

24 Q. I'm going to probably touch on this in a different
25 context a wee bit later, but I think in this scoping

1 project you looked for numbers of children in foster
2 care over that period --

3 A. Yes.

4 Q. -- 1930 to 2005. I wonder if we can look at some of
5 that, please.

6 If we can go, first of all, to page 17 of your
7 report, you start there by saying that you've carried
8 out analysis of statistics of children in care and you
9 note various sources that you were able to rely on, so
10 summary statistics, at paragraph 1.4.2, from the
11 Scottish Government looking at children in care.
12 I think you had a breakdown from 1952 to 1969, and then
13 1976 to 2010, there was a bit of a gap in the middle.

14 A. Mm-hmm.

15 Q. Then at paragraph 1.4.3 you also drew some material,
16 I think, covering that gap, as it were --

17 A. (Witness nodded)

18 Q. -- from Strathclyde University.

19 A. (Witness nodded)

20 Q. If we can --

21 A. Yes, Strathclyde -- although these were Scottish
22 Government published statistics.

23 Q. Held by the University of Strathclyde?

24 A. Yes.

25 Q. If we can start, please, by looking at page 33.

1 Sorry, that's the wrong page. Just bear with me
2 a moment, please. (Pause)

3 We'll start by looking at page 46. I think here we
4 see a table, table 3.2, where you're looking at numbers
5 of children in care from 1949 to 1951, and we see in
6 terms of children boarded out, there's between 5,500 and
7 6,000 over that period?

8 A. Yes.

9 Q. If we move on to the next, it's page 48. Do we see
10 a table here from 1952 to 1969?

11 A. (Witness nodded)

12 Q. Again it's a similar breakdown, but if we look at
13 boarded out or in foster care, from 1952 until 1969,
14 again the figures there seem to range between about
15 5,800 or so and 6,000/6,500?

16 A. Yes. I mean, for that length of time, relative -- you
17 know, pretty consistent in terms of the numbers boarded
18 out in foster care over that period.

19 Q. Then, at page 55, there's a table 4.1, where you're
20 looking at 1970 up to 1995. There we again have
21 a heading "With foster carers", I think in the middle of
22 the page. In 1980 to 1983 you weren't able to get
23 figures for foster care itself?

24 A. Yes.

25 Q. So either foster care or other community placement.

1 What does "other community placement" mean?

2 A. I think in that case it included placements with family

3 members.

4 Q. Okay.

5 A. I think that's what the bottom of the table with the

6 asterisk should -- but they're a small number -- yeah,

7 with friends and relatives, and then there would be

8 a small number of placements which would be included as

9 "other community", but not as residential care.

10 Q. If we can go back up to the top of that page again,

11 please, so 1970 to 1974, we see again numbers between

12 5,500 and 5,779, but then from 1976 the number seems to

13 have gone down, 3,763 there.

14 A. (Witness nodded)

15 Q. Do you know if there was any reason for the drop in

16 numbers at that point?

17 A. I can't recall what the particular reasons would be.

18 This would be after the 1968 Social Work (Scotland) Act,

19 and the different then legislation in terms of children

20 coming into care. I'm not sure whether it's to do with

21 definitional issues around the legislation, the way in

22 which different categories might be counted, because

23 certainly there were issues about -- I'm not exactly

24 sure about this time period, but later where some

25 relatives, or what we now term kinship carers, were paid

1 fees and allowances as foster carers in some Local
2 Authorities, while other Local Authorities were
3 different.

4 It may be to do with issues like that rather than
5 a drop in the numbers themselves.

6 Q. If we scroll down towards the bottom of that page,
7 please, from 1984 in terms of children being
8 specifically in foster care, it starts at 3,000 but
9 thereafter it seems to be usually round about 2,500 to
10 3,000.

11 A. Yes.

12 Q. Then can I ask you, please, to look on to page 64. This
13 is the 1995 to 2005 period, and in 1995: 2,600. In
14 2005, if we just scroll down, we see 3,600. So there
15 has been an increase there --

16 A. That's right.

17 Q. -- to some extent. The heading there is:

18 "With foster carers or prospective adopters."

19 A. Although prospective adopters would be a relatively
20 small number in terms of those figures.

21 Q. Okay. Again, was there any reason for the rise over
22 that period?

23 A. I'm not sure and I -- I could probably go away and look
24 at it, but I wonder about -- to look at that in terms of
25 child protection referrals and to look at that period

1 over child protection referrals.

2 Q. Okay.

3 A. Because it -- it would be those children, particularly

4 younger children, which would drive an increase in

5 foster care, an increase in numbers in foster care.

6 Q. Okay. We can leave that --

7 A. It may be somewhere in the report, but I couldn't swear

8 to where it is.

9 Q. We'll look at this period in your report just now. So

10 we can put this document away now, thank you, and if we

11 can look, please, at your report, it's at page 343, so

12 LIT-000000025.

13 If you just bear with me a moment, my technology has

14 given up on me.

15 Page 343 is in the first folder.

16 LADY SMITH: The first volume, yes. That's 343 of the

17 report not --

18 MS INNES: No, it's 343 of --

19 LADY SMITH: Our 343, put it that way.

20 MS INNES: Professor, if you'll look on the page, I'm not

21 going to refer to page numbers that are the page numbers

22 of the report itself. At the very bottom of the page

23 there'll be a reference and then a page number. For

24 example, you can see --

25 LADY SMITH: Is this the page that's headed, "1995 to 2014:

1 Children (Scotland) Act 1995 to Children and Young

2 People (Scotland) Act 2014"?

3 MS INNES: It is.

4 LADY SMITH: That's 329 of the report itself.

5 MS INNES: Do you see the page number at the very bottom --

6 A. Yes, I have that.

7 MS INNES: -- that I'm going to refer to.

8 Thank you, Professor.

9 This is the section of your report that has been
10 completed, I think, since you last gave evidence. At
11 this point you're looking at the period 1995 to 2014.

12 A. (Witness nodded)

13 Q. You introduce this by saying that this period "... saw
14 unprecedented developments in childcare in Scotland".
15 Why was that?

16 A. It was both in terms of the legislation, the Children
17 (Scotland) Act 1995 and some of the principles that were
18 laid down in that legislation.

19 It was to do with the issues around safeguarding and
20 protecting children in care, which had broader
21 implications in terms of the regulation of social work
22 services and the social work and social care workforce.

23 I think more -- based on that, a real focus on
24 integrated or joined-up working, child-centred focus in
25 terms of services, which came through in a number of

1 policies that I think that we'll come onto later.

2 Q. Thank you.

3 If we could go on to page 344, and here we're back
4 to the issue of numbers. In the second paragraph there
5 that you see, first of all you talk about:

6 "Between 1995 and 2005, the number of looked-after
7 children remained fairly constant ..."

8 Then you refer to the number in foster care
9 increasing significantly, as we've just seen.

10 A. Yes.

11 Q. In the next paragraph you go on to say:

12 "Over the second half of this period, there was
13 a significant increase in the number of children in
14 care ..."

15 I think you're talking here about the period from
16 2005 to 2014.

17 A. Yes.

18 Q. You then talk about the number of children being cared
19 for at home rising and then falling, the number of
20 children in residential care also rose slightly, and the
21 number of children in foster care continued to rise from
22 3,660 in 2005 to 5,500 in 2014.

23 A. (Witness nodded)

24 Q. So we're seeing it back to the numbers that we saw in
25 the earlier part of the period.

1 A. That's right, yes.

2 Q. Were you able to ascertain any reason for that in that
3 2005 to 2014 period?

4 A. Again, I'd go back to my previous answer, that I would
5 suspect that it's to do with child protection referrals.

6 Q. Does it perhaps reflect -- you've said at the beginning
7 of that paragraph that the number of children in care
8 rose itself.

9 A. Yes.

10 Q. So that might be a result of that.

11 A. Yes, that's right.

12 Q. At the bottom of the page you make reference to:

13 "McGhee and colleagues provided a comparative
14 analysis of rates of children in public care across the
15 UK. Between 2005 and 2014 Scotland had substantially
16 higher rates of children in out-of-home care than the
17 other UK nations, including England and Northern
18 Ireland."

19 If we carry on over the page, please, to page 345.
20 The conclusion of this study seems to have been in the
21 quote:

22 "... national variation appears, in the case of the
23 UK countries, less a reflection of differential levels
24 of need for public care and more a reflection of
25 differing legal and operational practice. This is

1 especially true within the Scottish context, where the
2 integration of youth justice and child protection within
3 the Children's Hearing System and the use of compulsory
4 supervision orders clearly contributes to substantially
5 higher rates."

6 Is this the sort of thing that you've been referring
7 to when you have been speaking about child protection
8 referrals --

9 A. Well --

10 Q. -- or is this something different?

11 A. I think this also goes back to Kilbrandon and the
12 Children's Hearing System and social work services, and
13 looking at the needs of children rather than the deeds,
14 and so young offenders were included within the
15 Children's Hearing System as well as children and young
16 people offended against, the child protection referrals,
17 which are separated out in other legislations in the UK.

18 Q. Okay. The next heading that we see there:

19 "Developments in collaborative and joined-up
20 working."

21 You note that in this period:

22 " ... there were important developments in childcare
23 policy that built on ... progress ... up to the 1995
24 Act. The Act emphasised Local Authorities' corporate
25 responsibility for children, intended to encourage

1 interdepartmental collaboration and joint ownership of
2 children's issues. They were required to produce
3 Children's Services plans in consultation with a range
4 of other organisations."

5 I think that's something that you mentioned as being
6 a key development in this period?

7 A. I think that's right. I think that from this period
8 there was a real focus on how there could be
9 an integration of Children's Services, how different
10 agencies could work together to support not just
11 children in care but children more broadly, and, you
12 know, the thorny issues of joined-up working, of
13 collaborative working, was really being pushed from this
14 period forward.

15 Q. The next heading that you have there, "For Scotland's
16 Children", still on the same page, you refer to the
17 Scottish Executive in 2001 publishing this document:

18 " ... a review of the Children's Services System in
19 Scotland, with the aim of ensuring that agencies work
20 together effectively to provide services for children."

21 That was focused on all children in Scotland?

22 A. Yes.

23 Q. Is that the type of initiative that you're referring to?

24 A. That's right, yes.

25 Q. Okay. If we can move on, please, to page 347, we see

1 a heading:

2 "Getting It Right for Every Child"."

3 And you say:

4 "Over the following years, the development of the
5 GIRFEC policy became a central plank in the Scottish
6 Government's approach to services for children."

7 What was the genesis of the GIRFEC policy?

8 A. As I say, it first appeared in the context of a review
9 of the Children's Hearing System, but it then in a sense
10 started to develop, as I say, as a central plank in the
11 way in which the Scottish Government would take forward
12 services for all children and young people, and
13 obviously had a major impact in terms of children in
14 residential and foster care as well.

15 LADY SMITH: Could you say this began pre-devolution once
16 the 1995 Act had been passed? Because this great shift
17 from rights of parents, for instance, to
18 responsibilities, looking at the children's interests,
19 the welfare of the child being the over-arching
20 principle that touches everything in that legislation.

21 A. Yes, I think that's right. But the way in which I think
22 GIRFEC also pushed collaborative working. I mean, that
23 has a slightly longer history, going back to the --
24 well, when I'm talking about the work I was doing in
25 Tayside and other Local Authorities in the early 1990s,

1 that was building up on youth strategies that developed
2 at the end of the 1980s/beginning of the early 1990s,
3 which were again seen as: how do social work and
4 community education work better together to provide
5 services for children and young people?

6 It's a thread which I think has been running -- and
7 even going back to Kilbrandon, one could argue --

8 LADY SMITH: Of course.

9 A. -- because, you know, he argued for the social education
10 department.

11 LADY SMITH: And the Children's Hearing System --

12 A. Absolutely.

13 LADY SMITH: -- regarding the child's offence, if I can call
14 it that, as being not so much as an affront to the state
15 but maybe indicative of failure by the state --

16 A. (Witness nodded)

17 LADY SMITH: -- and at the very least, indicative of the
18 need for the state to assist the child.

19 A. That's right, absolutely. And GIRFEC built on those.

20 Then the other aspect was that it was focused
21 around -- that the child was at the centre. In a sense
22 that's building on the 1995 Act as well.

23 MS INNES: You say just below that there was a GIRFEC
24 implementation plan. If we can scroll down, please, you
25 note that there was practice change and changes in

1 legislation.

2 A. (Witness nodded)

3 Q. GIRFEC is something that we hear a lot about, what did

4 it actually mean in practice?

5 A. I don't ... I think that's difficult -- it's a difficult

6 question to answer, because GIRFEC itself developed over

7 time and brought together a number of -- in a sense, in

8 terms of the bullet point list of that is -- was that

9 idea of -- because at the same time as this there was

10 SHANARRI -- please don't ask me what "SHANARRI" stands

11 for -- it was that idea of the different aspects of

12 a child's health and well-being.

13 LADY SMITH: Safe, healthy, achieving, nurtured, active,

14 responsible, respected and included. I think.

15 A. Absolutely, my Lady.

16 LADY SMITH: Do I have it right?

17 A. It shows I've been retired for far too long.

18 LADY SMITH: It's not easy.

19 A. There's that idea that this was being developed at the

20 same time and that was putting children to the centre,

21 and GIRFEC was the process or the policy which was

22 taking that forward at that time.

23 LADY SMITH: Put that way, and may I say it sounds very

24 convincing, it sounds as though it was fastened on as

25 a neat way of expressing where we were.

1 A. (Witness nodded)

2 LADY SMITH: As you say, we'd reached there from different
3 work streams, dating back -- possibly as back as far as
4 Kilbrandon, but certainly the work in the 1980s and the
5 1990s.

6 A. Certainly.

7 LADY SMITH: Thank you.

8 A. I don't think anything of this -- I don't think there
9 were sudden jumps. You know, the report I did, I must
10 acknowledge now some of the titles of my earlier reports
11 aren't the best, but this report was "Residential care
12 and the integration of childcare services", so that idea
13 of integration -- this was the early 1990s, before the
14 Children (Scotland) Act. As I say, the youth policies
15 in a number of Local Authorities were looking at working
16 together.

17 The participation and the voice of children and
18 young people in fact goes back to the Children's Hearing
19 System in Scotland, because it was expected that
20 children and young people would be part of that
21 decision-making process.

22 In the 1980s another piece of research I was
23 involved in was the implementation of child in care
24 reviews, and again the reports of the participation of
25 children and young people in the decision-making

1 process.

2 As you said, this was pulling together different

3 strands of work that had been developing over a number

4 of years.

5 MS INNES: Thank you, Professor.

6 I wonder, my Lady, if that might be an appropriate

7 time to take a break.

8 LADY SMITH: Yes.

9 MS INNES: Because I'm going to move on to the Kent report,

10 which is a new area.

11 LADY SMITH: Might you welcome a break at this stage,

12 Professor?

13 A. Thank you.

14 LADY SMITH: Let's do that, and if we can start again by

15 11.45, please. Thank you.

16 (11.26 am)

17 (A short break)

18 (11.45 am)

19 LADY SMITH: Professor, I hope you feel that's given you

20 enough time to draw breath --

21 A. Absolutely.

22 LADY SMITH: -- before we start interrogating you a little

23 further, if that's all right.

24 Are you okay if I hand over to Ms Innes now?

25 A. Yes, that's fine.

1 LADY SMITH: Ms Innes.

2 MS INNES: Thank you, my Lady.

3 Can I take you now to page 348 of your report and
4 a heading, "Safeguarding children in care and responses
5 to abuse of children and young people in care".

6 You note there that over the period of review, so
7 1995 to 2014, there was an increasing recognition of the
8 need to protect and safeguard children in care and also
9 of historic abuse of children and young people in care.
10 You note that initially much of the focus was on abuse
11 in residential care and institutions, but there was
12 an recognition, or an increasing recognition, that
13 children and young people were abused in a range of
14 settings, including foster care.

15 A. Mm-hmm.

16 Q. Was that your impression, having been working in this
17 area over this period, that the focus was primarily on
18 institutional care but then there was an increasing
19 recognition in relation to foster care?

20 A. Yes. Certainly in terms of even going -- before 1995
21 there was the Skinner review of residential childcare in
22 Scotland. That drew on other inquiries across the UK of
23 abuse in residential care. The children safeguards
24 review in 1995 did address foster care, but many of the
25 recommendations were still focused on residential

1 childcare.

2 Coming up to the Chris Daly's petition was
3 specifically about residential childcare and
4 institutional care, but that is because that is where he
5 had been placed as a child.

6 So in a sense he was using his experiences as the
7 basis for that focus on residential childcare.

8 Q. Okay. If we can deal first of all with the Children's
9 Safeguards Review, if you go on to page 349 of your
10 report, you start there dealing with that review.

11 You say:

12 "In 1996 ... Roger Kent was asked to report on
13 arrangements for safeguarding and protecting children
14 who were cared for away from home in Scotland."

15 That, as you then note further down in the
16 paragraph:

17 " ... addressed the protection of children in
18 a number of settings."

19 Including foster homes.

20 I'd like to look at some aspects of the Kent report
21 with you, if I may. This is at LIT-000000163. If I can
22 start at page 14 of it.

23 In this section, I just want to ask you about
24 paragraph 2.11, which is on the right-hand side of the
25 page, the heading, "Running away".

1 If we can maybe expand it a little bit more?

2 It says:

3 "Young people and children may run away from home
4 for different reasons. They are less likely to run away
5 from a home when they feel safe and secure."

6 Kent then refers to the Skinner report that you've
7 just mentioned, saying:

8 "The causes of a child's absconding should be
9 discovered not only by looking at the behaviour and
10 emotional state of the child but also whether there were
11 any deficiencies of any sort in which the child is
12 placed. This attitude is supported by recent research."

13 In the quote, in italics, it says:

14 "In particular, there needs to be awareness that
15 frequent running away by several young people from
16 a single home may indicate abuse or other failings in
17 the management and the practice in the home."

18 That's obviously in a residential home setting. Is
19 this something that, from the research, could apply to
20 foster care as well?

21 A. I'm trying -- I think, going further back, I can think
22 of instances where that has occurred and certainly
23 I think it could be applied more broadly to include
24 foster care.

25 Q. I think perhaps the point here is that you need to look

1 at the reasons why.

2 A. Absolutely. Again, the Leicestershire Inquiry down in
3 England, one of the issues that was raised there was the
4 way in which children and young people were returned --
5 this was to a residential setting -- to what proved to
6 be an abusive setting by the police. They spoke of the
7 abuse and weren't believed, and there was just no
8 questioning for the reasons why those young people were
9 running away.

10 LADY SMITH: I've heard many instances of children running
11 away from institutional care.

12 A. Yes.

13 LADY SMITH: Few of them actually feeling they were able to
14 tell the police anything, which is also a problem --

15 A. That's right.

16 LADY SMITH: -- because abuse could be the reason or
17 intolerable circumstances for them in the institutional
18 setting and them being taken right back to where they'd
19 run away from and then punished for running away.

20 A. Yes, absolutely.

21 MS INNES: If we can move on, please, to page 16 --

22 A. I think one of the issues is that because there's been
23 the focus on residential care is why perhaps I'm
24 struggling to recall instances of those situations in
25 foster care.

1 Q. If we can move on, please, to page 16, and a heading
2 there, "Misuse of foster carers", in paragraph 2.16. He
3 notes there:

4 "Foster carers are often called upon to care for
5 very difficult children, sometimes with inadequate
6 knowledge about them."

7 Then there's reference to the history of the child's
8 care. Does that pick up on one of the themes that we
9 saw in your own Tayside review --

10 A. (Witness nodded)

11 Q. -- in terms of the behaviour of children and their
12 background?

13 A. Yes, that's correct. It's the stress that are placed
14 upon foster carers because of this being asked to care
15 for children that may not be within their specified
16 remit, lack of information, because in other contexts
17 young people who have exhibited harmful sexual behaviour
18 have been placed with foster carers with foster carers
19 not knowing about this.

20 I think in those, the sort of range of instances is
21 that idea of misuse -- I remember looking at the review
22 and thinking -- of my report and thinking what was meant
23 by "misuse of foster carers"? But it's that idea of
24 them not being used, in a sense, in an appropriate way
25 for children and young people that can create the stress

1 that can lead on to an abusive situation.

2 Q. In the second paragraph under that heading, I think we
3 see that he refers to issues about vetting, careful
4 choice for a particular child, a given quality of
5 training. They must know as much as possible about the
6 child so they can more easily face up to the problems
7 which cause the behaviour and offer help. They must be
8 supported by their own social worker and by the social
9 worker for the child, with other professionals involved
10 as necessary.

11 Again, does that pick up on some of the themes that
12 you've been discussing?

13 A. Absolutely, yes.

14 Q. Then he has a number of bullet points:

15 "Too many foster carers say that they are being
16 asked to care for children."

17 Then he lists a number of bullet points. Was this
18 from research and interaction with foster carers
19 themselves, do you know?

20 A. I think it would be drawing on the research that was
21 available, but also in terms of Roger Kent's studies as
22 part of the review.

23 Q. There's reference there to inadequate information
24 without support, without help and interactions. At the
25 final bullet point there:

1 "They're being asked to care for children for too
2 long after they have said that they have had enough."

3 At the top of the next page, if we can just go over
4 to the other side of the page, he says there:

5 "In these circumstances, there is a risk that the
6 foster carers will reject the child, that they will
7 resign and be lost as a resource, that their family will
8 start to disintegrate or that stress will cause one of
9 them to abuse the child being fostered."

10 Again, I think that's picking up on the issue of
11 stress that you've already referred to.

12 A. That's right. And it's also in the context of -- at
13 this time and over longer periods of time -- of there
14 being shortages of foster carers, and throughout this
15 process it's been -- you know, there haven't been enough
16 foster carers to provide the choice of placements and so
17 foster carers will, as in the bullet list, be asked to
18 care for children that are not quite within their own
19 remit.

20 But also, as at the bottom there, that, well, can
21 you care for this child longer because we don't have
22 an alternative foster carer? It might mean a young
23 person going into residential. There's that stress.
24 Again, the international literature has picked up on
25 this idea of burnout and stress in terms of foster

1 carers.

2 Q. The next paragraph that we can see, paragraph 2.17, he
3 highlights there:

4 "Thinking SCRO checks are enough."

5 He talks about again residential care here:

6 "It is important to safeguard children by ensuring
7 those who have relevant convictions do not work in
8 residential care. It is currently possible for Local
9 Authorities and certain other bodies to check with the
10 Scottish Criminal Records Office to discover whether
11 particular individuals have criminal records which show
12 them to be unsuitable to work unsupervised with
13 children. SCRO checks are very valuable, but they have
14 limitations. They show the convictions that people
15 have, but only a small proportion of those who actually
16 come to the attention of the police for sexual offences
17 are eventually convicted. The abusers who have been
18 caught have often abused many children previously."

19 He goes on from there.

20 Again, his focus is on residential care --

21 A. Yes.

22 Q. -- and he refers to a couple of cases again in that
23 setting and says:

24 "If too much reliance is placed on SCRO checks,
25 other important barriers may not be put in place."

1 Is this something that could also translate to
2 foster care?

3 A. Yes, absolutely, yes.

4 Q. If we can move on to the next page, please, page 17, and
5 if we can look at paragraph 2.21 --

6 LADY SMITH: Just while we're finding that, Professor, there
7 was a comment in the previous paragraph about needing to
8 remember that an offence committed in the Armed Forces
9 or abroad would not appear in the Scottish Criminal
10 Record Office stats. Do you know whether the current
11 PVG system would pick up offences committed in the Armed
12 Forces or abroad?

13 A. I'm not sure at all. No, I wouldn't want to say whether
14 it does or doesn't.

15 LADY SMITH: I've never heard it specified that it does.
16 One knows about the access they have to convictions
17 I think throughout the UK, that they can tell us about,
18 and also police information that may not have led to
19 prosecution, but it's maybe something that needs to be
20 checked. Thank you.

21 Ms Innes, sorry, that's a diversion whilst I just
22 thought about it.

23 MS INNES: My Lady, thank you.

24 The paragraph there headed, "A very sterile care
25 climate". Again there's reference here to residential

1 care.

2 In the final paragraph it's talking about
3 residential units:

4 "We cannot replace in a residential unit or school
5 the same warmth and love which should be found in
6 families. However, it's essential that we provide the
7 necessary warmth, affection and comfort for children's
8 healthy development if we're not further to damage
9 emotionally children and young people who have usually
10 had a raw deal from life."

11 Again, is this something that can apply in the
12 foster care setting as well? I mean, it's obviously
13 a family setting.

14 A. Yes, it could, but again I think it ... I think there
15 was a particular issue in residential childcare because
16 of the scandals were primarily focused on residential
17 childcare. There was the myth of no-touch policies in
18 residential care. As far as we know, no Local Authority
19 had such a policy, but it was believed that there were
20 such policies. So Kent is questioning that.

21 I don't think there was that same emphasis in foster
22 care, but that's just my feeling about what was going on
23 at the time rather than concrete evidence, as it were.

24 Q. In the next paragraph we see there, 2.22, "Wrong
25 placement". If we can move over to the other side of

1 the page, please, just at the top of the screen there
2 you can see a paragraph that says:

3 "Foster care places are even harder to obtain and
4 increasing numbers of children under 12 are being placed
5 in children's homes, although the Skinner report
6 strongly recommended that this should only happen in
7 exceptional circumstances."

8 I think that draws out the point that you were
9 making a moment ago about pressure on resources.

10 A. (Witness nodded)

11 Q. Then it says in the report:

12 "Children are more at risk from foster carers if
13 they remain with them after the carers have asked that
14 they should move on."

15 I think that may go --

16 A. Yes.

17 Q. -- back to the bullet point that we saw a moment ago.

18 A. That's right.

19 Q. He notes:

20 "The National Foster Care Association has told me
21 that there is evidence that under these circumstances
22 they are more likely to be physically or even sexually
23 abused."

24 That seems to have been the source for that
25 information.

1 A. Yes, that's correct.

2 Q. At paragraph 2.23, where you can see just below there's
3 a heading, "Multiple placements". Again I think he
4 highlights here the issue of children going from one
5 placement to another and being hard to place.

6 If we can look at the paragraph beginning "Most
7 moves":

8 "Most moves made by children from one placement to
9 another are part of a positive plan for their care,
10 others arise from a breakdown or problem with the
11 placement. Sometimes children who are not causing any
12 difficulties are moved from placements where they are
13 happy. This is most likely to happen if one of their
14 peers abuses them and the abuser is seen as being hard
15 to place. Some children may not speak about abuse for
16 fear of being moved."

17 Then he says:

18 "There may be a need for a co-ordinator or
19 arbitrator who may not be involved directly as a social
20 worker for either child and can make detached
21 decisions."

22 Again, does that highlight some of the issues that
23 children faced? I think he says above this is relevant
24 to foster carers and residential care.

25 A. Yes, I think -- and in relation to the previous report,

1 which is talking about the issues around multiple
2 placements and how it impacts in different ways. How it
3 impacts on children and young people in that sense of
4 multiple moves creating that instability, adding to
5 pain-based behaviour, which then almost become a vicious
6 cycle in terms of future placements.

7 I think that that idea of where it's saying the
8 abuser is seen as being hard to place is that concern
9 about the range of resources for particular young
10 people.

11 Q. Can I move on, please, to page 57. At the top of the
12 page on the left-hand side there's a heading here, "The
13 extent of abuse". Do we see that he says there:

14 "I have tried to quantify the amount of abused
15 children living away from home in Scotland but have met
16 with only limited success. There is a dearth of hard
17 statistics."

18 Is that something that you were aware of as well
19 from your own researches at the time?

20 A. Yes, that's right. In a sense, there wasn't any central
21 collation of instances of abuse of children in
22 residential or foster care. There was a lack of
23 specific research around this issue, so most of the
24 research, when I was doing the literature review for the
25 Children's Safeguards Review, was coming from the

1 States, some material from England, but relatively
2 little from Scotland.

3 Relatively little. Very little.

4 Q. Then he says:

5 "This is something which can be tightened up without
6 much difficulty, in the first place by ensuring that
7 every Local Authority collects the child protection
8 management information which the Scottish Office joint
9 steering group agreed in March 1992 was necessary."

10 He says:

11 "If that information were provided, it would be
12 possible to see what child protection cases related to
13 children living with foster parents or in some type of
14 children's residential establishment and whether the
15 perpetrators were either foster carers or professional
16 carers, although it might not in its present form
17 collate information from peer abuse."

18 Is that something that he then built in as one of
19 his recommendations?

20 A. The recommendations were both about the collection of
21 information on child protection information on
22 an ongoing basis, but also in terms -- I think he
23 specifically recommended that there should be further
24 research on abuse in care and specifically identified
25 the area of foster care as particularly in need of that

1 further research and information.

2 LADY SMITH: It's a shame he didn't add that there should be
3 specific gathering of data by the prosecuting
4 authorities --

5 A. Yes.

6 LADY SMITH: -- which, until very recently, provoked,
7 I think, by our requirements, the Crown Office and
8 Procurator Fiscal Service, in conjunction with the
9 police, realised that they need to keep. When we made
10 demands on them for information they were unable to
11 search under "foster care" because they hadn't collected
12 the data in that way.

13 A. Yes.

14 LADY SMITH: They will do now.

15 MS INNES: I think if you can move on, please, to page 58,
16 to the left-hand side of the page, just above the bullet
17 points, first of all, he says there -- well, in fact,
18 above that:

19 "Reading the literature review, I am struck by the
20 number of times that the author has to state that there
21 is little or no British research on a particular topic."

22 That was the review you carried out?

23 A. Yes.

24 Q. Then he says:

25 "Above all, I am aware that although we have one

1 inquiry after another, often repeating at the end many
2 of the same recommendations, there is as yet no British
3 research which looks at abuse in institutions as a topic
4 in its own right. It is time to take a more proactive
5 stance in relation to this in the Scottish system."

6 Then he says:

7 "We need studies of the incidence of abuse and
8 neglect of children living away from home in different
9 types of settings, and one of those is foster care."

10 A. (Witness nodded)

11 Q. Below that he says:

12 "I am particularly concerned that there is even less
13 information about abuse in foster care than there is
14 about abuse in residential settings. We need research
15 into the experiences of children and young people in
16 out-of-home care settings, using their own words as far
17 as possible. Complaints procedures need to be evaluated
18 as a measure established to reduce abuse of children
19 living away from home."

20 Then he talks about studying the work of children's
21 rights officers and other advocates for children.

22 Then I think his recommendation that we see at the
23 bottom of the page is in relation to national
24 statistics, so I think that covers the material that you
25 mentioned a moment ago --

1 A. Yes.

2 Q. -- that it was about statistics, but also about
3 substantive research?

4 A. Yes.

5 Q. Okay. Can I move on, please, to page 67 --

6 A. Can I just say, I don't think that research then took
7 place. It wasn't followed up. I know I wrote proposals
8 and tried to get funding and didn't manage to get
9 funding. I think it's only with Professor Biehal's
10 research that there's been a systematic look at issues
11 of abuse in residential and foster care.

12 LADY SMITH: He was writing in 1996?

13 A. Mm-hmm.

14 MS INNES: The reference that you made to Professor Biehal's
15 research, was that in 2014?

16 A. Yes.

17 There had been some research, but often small scale.
18 I think Professor Biehal's research gives us
19 a systematic and rigorous look at the incidence of
20 abuse.

21 Q. What about the recommendation in relation to gathering
22 statistics? Do you know if that was carried through?

23 A. I think that was taken forward through the child
24 protection committees.

25 Q. Okay, I think I'd asked that we're at page 67 now and at

1 recommendation 33. If we scroll down, please, we see
2 a recommendation 33:

3 "Foster care should be brought within the inspection
4 process."

5 The paragraph above that, he says:

6 "I have no evidence that this is the case, but it is
7 possible that children in foster homes are more
8 vulnerable than children in residential settings. There
9 are fewer officials and children's rights staff do not
10 find it easy to go in. Foster caring should be brought
11 within the inspection process."

12 There's a reference to a pilot study or a pilot of
13 inspection, I think. He thought that the body that
14 inspected residential childcare should also inspect
15 foster care:

16 "Perhaps they should concentrate on the arrangements
17 for fostering, but I would want inspectors to at least
18 meet a sample of carers and children."

19 Was this recommendation taken forward?

20 A. Well, this was eventually taken forward, but through the
21 broader national -- you know, the Care Inspectorate in
22 terms of the broader national inspection of children's
23 services and broader social work services.

24 Q. Can I ask you to look, please, at page 69. Where we
25 have a heading, it's 8.8, "External eyes". The initial

1 paragraph again refers to residential care, but at the
2 end of that sentence he says:

3 "There is also a need for some additional people to
4 go into foster homes."

5 He talks about the concept of an appointed person at
6 recommendation 43, which seems to relate to
7 establishments. In terms of foster care, what
8 recommendation was he making in relation to additional
9 people going into the foster home?

10 A. I don't think he was making a recommendation.

11 Q. No.

12 A. At this time, and it comes across in a number of the
13 reports we'll look at and certainly in terms of the
14 Children's Safeguards Review, is that idea of the
15 isolation and privacy of the family home and on what
16 basis will other people be going into the home?

17 Who Cares? raise it in terms of some of their
18 reports that there are much less advocates for children
19 in foster care than for children in residential care.

20 Touch on it in the Edinburgh report, the role of
21 children's rights officers and that they weren't going
22 into foster care, they didn't have the resources. They
23 were going into residential care settings.

24 Although at this time in the 1990s there were
25 a number of things developing, it was focused on

1 residential childcare. That was both because of the
2 concerns about residential childcare but also that idea
3 of the privacy of the family.

4 LADY SMITH: Was it, in addition to privacy, a feeling that
5 that had to be filed under "too difficult to organise"?
6 When rather than going to one place where you see
7 everything and hopefully the children, you're going to
8 have lists of addresses where children are fostered out
9 in different circumstances.

10 A. That's right. Although potentially there could be ways
11 of --

12 LADY SMITH: Oh yes.

13 A. -- getting around it, but I think -- yes, I think that's
14 absolutely right. But I still think -- you know,
15 pre-meeting I remember following the Children's
16 Safeguards Review, going to a meeting of social work
17 managers to discuss the Children's Safeguards Review,
18 and a senior manager saying, "It's all right, we've
19 moved our children from residential care into foster
20 care", so there was still that mentality that foster
21 care was safe.

22 LADY SMITH: Yes.

23 MS INNES: If we could go over to the other side of the
24 page, please, and above, there's a recommendation 46:
25 "Every child living away from home without immediate

1 access to a parent should have a befriender or
2 independent person or guardian appointed. This is
3 particularly important for those children for whom the
4 rights and powers of a parent have been assumed by the
5 Local Authority."

6 In the preceding paragraph he says:

7 "Children living away from home and who do not have
8 immediate access to a parent lack a safeguard which
9 others have."

10 He talks about this idea of a befriender.

11 Towards the end of the paragraph:

12 "Such a person would be an important additional
13 safeguard for children in foster care without immediate
14 access to their parents, and in particular those where
15 a parental responsibilities order has been made."

16 It seems to be this idea of a befriender or
17 an independent person.

18 A. That's right, and again it's the same idea of, you know,
19 because I see the mention above of children's rights
20 officers and advocacy. Again, it's that idea of how is
21 that done in terms of individual families?

22 Q. Do you know if that was something which was taken
23 forward or how was that responded to?

24 A. In terms of the Scottish Government response to the
25 Children's Safeguards Review, there was in a sense some

1 concern about the numbers of external eyes that
2 Roger Kent was proposing and saying even within
3 a residential establishment, how much of a fishbowl does
4 the establishment become if you have children's rights
5 officers, a befriender, advocacy service, council
6 members coming in to visit is another thing.

7 So the Scottish Government response pulled back
8 a bit from that, and possibly quite rightly, but then
9 I don't think it was taken forward in terms of foster
10 care.

11 Q. Then if I can ask you to move to the next page, please,
12 which is page 70. Oh no, sorry. (Pause)

13 My number's wrong again. (Pause)

14 Yes, it is page 70 and on the right-hand side at
15 paragraph 8.9 there's a heading:

16 "Investigation and monitoring."

17 It says in the first paragraph there:

18 "Some Local Authorities have in the past found
19 reasons for not reporting cases of abuse of looked-after
20 children to child protection committees, in the belief
21 that they should be able to use management arrangements
22 to sort out any problems. The child protection
23 guidelines used in different parts of the country do not
24 necessarily make specific reference to abuse by
25 professional staff or substitute carers, they are

1 unlikely to refer to peer abuse."

2 First of all, does this again pick up on one of the
3 issues that you highlighted in your Tayside review, that
4 there were different approaches to or different
5 responses to allegations of abuse --

6 A. That's right.

7 Q. -- in terms of the way the allegation was then dealt
8 with?

9 A. Yes, certainly.

10 Q. When he says here that the child protection guidelines
11 don't make reference to abuse by professional staff or
12 substitute carers, does he mean that their focus was
13 therefore on abuse within the family setting as opposed
14 to when a child was in care?

15 A. Yes. I can't recall when the national guidelines
16 actually started explicitly including abuse in
17 residential and foster care as part of the national
18 guidelines.

19 Q. Then we see -- if we can scroll down a little, please --
20 recommendation 52, we see that he says:

21 "There should be a constant review of any instance
22 of abuse by carers. This should be undertaken by child
23 protection committees, who should be reorganised in
24 clusters of Local Authorities to enable objective
25 investigation by another agency if this is deemed

1 appropriate."

2 Can you explain what he was referring to there in
3 terms of the recommendation about clusters of Local
4 Authorities?

5 A. I'm assuming that that's to bring in some independence
6 so that a Local Authority isn't reviewing its own
7 practice. Because at this time in terms of inspections,
8 it was Local Authority inspections and inspections of
9 your own services, so this would be Roger Kent trying to
10 create an element of independence in the way in which
11 reviews would be undertaken.

12 Q. Thank you, Professor.

13 If we can go back to your report now, please, and to
14 page 351, at the bottom of page 351 you have a heading:

15 "Response to the Children's Safeguards Review."

16 A. Yes.

17 Q. I think in that section you refer to the published
18 response by the Scottish Officer to the review.

19 A. Yeah.

20 Q. You say that most of the recommendations were accepted.
21 You note that in relation to child protection the
22 recommendation for the need to gather statistics was
23 agreed.

24 A. (Witness nodded)

25 Q. Then, over the page, at the top of page 352, you note:

1 "The need for research on the abuse of children
2 living away from home was referred to the Scottish
3 Office Central Research Unit."

4 A. (Witness nodded)

5 Q. Then there were further recommendations which were
6 accepted.

7 I think if you go on to the top of page 353, we see
8 there that the recommendations in relation to
9 independent visitors to establishments, and there was
10 a concern about the impact of that --

11 A. Yes.

12 Q. -- and you've referred to that already.

13 In the second part of that paragraph you note that
14 it was said:

15 "Existing systems for looked-after children should
16 be improved, and existing schemes to link those children
17 who are particularly isolated to adult befrienders
18 should be considered."

19 A. (Witness nodded)

20 Q. That seems to be the extent to which matters were taken
21 forward at that stage.

22 A. That's right, and I'm trying to remember whether I ever
23 saw any collated information on abuse following on from
24 the recommendation. It's not something that was,
25 I think, immediately apparent.

1 Q. In the paragraph just at the end of that section we can
2 see -- so the same section above the heading "Feeling
3 safe", you note:

4 "The Scottish Office accepted recommendations
5 concerning investigation and monitoring of abuse by
6 carers and committed to a review of child protection
7 committees. It was also agreed that all establishments
8 should have a procedure to enable whistle-blowing and
9 that all young people should undergo an exit interview
10 when they leave a service."

11 Was that a further response to the recommendations
12 you made?

13 A. Yes, and it -- it's been a constant, I think, concern
14 around issues such as complaints procedures or
15 whistle-blowing, is that often children and young people
16 don't actually trust such systems and are very wary of
17 such systems. And so although recommendations are made,
18 the extent to which they were put into practice was
19 probably variable and the extent to which they were
20 effective was probably variable.

21 Q. I'd like to move on to page -- starting at page 368 of
22 your report, Professor, where you have a section dealing
23 with Chris Daly's petition, that you mentioned earlier
24 in your evidence, and the government response to that.

25 The Inquiry has obviously heard evidence about this

1 material before, so we know, I think, that there was the
2 Shaw report on historical abuse published in 2007 and
3 that focused on residential care. Is that right?
4 A. Yes.
5 Q. Then there was the Scottish Human Rights Commission,
6 Human Rights Framework, and then the Time to be Heard
7 Forum.
8 A. Yeah.
9 Q. The Time to be Heard pilot was a residential care
10 setting again?
11 A. That's right, yes.
12 LADY SMITH: That was Quarriers?
13 A. Quarriers, yes.
14 MS INNES: Can I ask you, please, to look on to page 379 of
15 your report, and if we can scroll down a little, there's
16 a paragraph beginning:
17 "Shaw concluded that the Commissioners were
18 'convinced of the value of a confidential forum'.
19 There was a recommendation that there be
20 an independent National Confidential Forum.
21 At the end of that paragraph, you say:
22 "Applications from any person who spent time in care
23 as a child should be accepted."
24 Did that cover foster care as well as --
25 A. Yes --

1 Q. -- residential care?

2 A. -- that explicitly included foster care.

3 Q. Okay. In the next paragraph you say:

4 "The Scottish Government supported the main
5 recommendation of the pilot forum and committed to
6 establish a National Confidential Forum ..."

7 Can you please clarify whether foster care was
8 included in what the Scottish Government accepted or
9 not?

10 A. This is where I have to hold my hand up. This is
11 a mistake.

12 In the Scottish Government response to the
13 evaluation of Time to be Heard, they took the
14 recommendations of the evaluation and included them
15 within their document in bold.

16 I will say that they don't actually reference it.
17 So it looks as if it just follows on.

18 What the Scottish Government said was that they
19 needed to do further research. They didn't actually
20 include foster care.

21 Q. If we look at the top of page 380 of your report, you
22 say there:

23 "It considered that further work was needed to
24 identify the wide range of childcare arrangements which
25 existed in the past, to establish how we can contact

1 people who were previously part of these arrangements
2 and to include them in consultation on what happens
3 next."
4 A. Yes.
5 Q. Was foster care included in that broad context?
6 A. Yes. As part of that, they commissioned the report we
7 referred to earlier that I did with Moyra Hawthorn.
8 Foster care was explicitly included in the remit of that
9 report. So this was part of the exploration.
10 They also commissioned a number of shorter research
11 projects looking at what could be termed hard-to-reach
12 groups, those in prison, disabled people and they also
13 included foster care as well, so there was another study
14 looking at foster care as part of this exploration of
15 the range of services to be included.
16 LADY SMITH: Can you remind me when you did the report with
17 Moyra Hawthorn?
18 A. 2000 and -- no, I can't remember. 2010?
19 MS INNES: I'm just going to go back to it, my Lady, if that
20 helps.
21 LADY SMITH: If we can get into the notes. I'm just trying
22 to get it in my mind in the chronology with the NCF and
23 the other initiatives that were going on at the time.
24 A. That's right.
25 LADY SMITH: Thank you.

1 MS INNES: If we can look, please, at SGV-000023967, and if
2 we just scroll down a little, I think we see that this
3 was published in June 2012.

4 A. Yes.

5 Q. If we could go on, please, to page 6 of the report, you
6 set out there the background:

7 "The report aims to provide an overview of abuse and
8 neglect in the changing context of residential and
9 foster care in Scotland between 1930 and 2005."

10 A. Yes.

11 Q. There have been significant changes. You then say:

12 "Across the whole of this period, however, children
13 and young people have been abused in care. We have
14 identified the range of abuse that has occurred in
15 residential and foster care, but it is not possible to
16 determine the scale of abuse or the number of children
17 and young people who have experienced abuse."

18 Why is that not possible?

19 A. Well, then echoing sort of, you know, 10, 15 years on,
20 the lack of information available on the scale of the
21 abuse. Particularly in this context going back over
22 long periods of time.

23 Q. I think if we go on to the bottom of page 8, under 1.2
24 we see "Remit", and you explain that this was to collect
25 a range of data to inform the development of the forum.

1 At the very bottom of the page:

2 "The remit of the scoping study was to collect
3 available information on the number of children and
4 young people who had experienced residential and foster
5 care in Scotland in order to project potential numbers
6 of participants ..."

7 A. (Witness nodded)

8 Q. We've looked already at some of the tables of numbers.

9 A. Yes.

10 Q. From that, did you and your colleague try to make
11 an estimate of the numbers of children who might
12 potentially be --

13 A. We made an estimate of the overall number of people who
14 would have been in care over that period. Because of
15 the way that the statistics tended to be collected,
16 which was a census on one day in a year, it's not
17 possible to know whether children and young people
18 changed placements, left placement and came back into
19 care. So we were unable to estimate how many were in
20 foster care as opposed to residential -- or had
21 experienced foster care as opposed to residential care.

22 Q. Okay, thank you.

23 If we can go back again to your report,
24 LIT-000000025, page 380, so we've seen the scoping study
25 took place and then legislation was brought forward in

1 relation to the setting up of the National Confidential
2 Forum. It's at page 380. You refer to the relevant
3 legislation and you say in the next paragraph:

4 " ... the legislation specified that participants
5 should have been in institutional care."

6 I think you've already referred to the Scottish
7 Government's response. I think you've had sight of some
8 documents recovered by the Inquiry in relation to
9 reasons given --

10 A. Yes.

11 Q. -- why foster care wasn't included. If I can take you,
12 please, to SGV-000050912, do we see that this is
13 a letter from I think Michael Matheson, who was then
14 Minister for Public Health to the convener of the Health
15 and Sport Committee?

16 A. (Witness nodded)

17 Q. If we scroll down, it's December 2013 and it's headed:

18 "Victims and Witnesses (Scotland) bill: National
19 Confidential Forum: stage 2 consideration."

20 If we just scroll down a little and we look at the
21 paragraph beginning, "Firstly":

22 "Firstly, I will respond to Nanette Milne's question
23 about broadening the remit of the NCF to cover foster
24 care."

25 I think you've looked at this and a couple of other

1 documents that have been recovered by the Inquiry and
2 what reasons were being given by the government for not
3 including foster care at this stage in the NCF?

4 A. I think this goes back to, you know, the general focus
5 on the issues of abuse in residential care. So even
6 going back to the setting up of the Scottish Social
7 Services Council, residential childcare workers were one
8 of the first groups to be included in the register.

9 It reflects what I said earlier. I think there has
10 been a focus on the issues around residential care, even
11 though the Children's Safeguards Review addressed foster
12 care and the scoping study identified issues in terms of
13 abuse in foster care as well as residential care. There
14 was this focus on residential care is what needs to be
15 fixed.

16 Q. I think in the last paragraph that we see there on the
17 page beginning, "Survivors of abuse", and in the very
18 last couple of sentences there he says:

19 "It is extremely important that we respond,
20 specifically and appropriately, to the calls from former
21 residents of institutional care and their particular
22 experiences are recognised and acknowledged. I have
23 always been clear that widening the scope of the NCF to
24 include foster care and other non-institutional care
25 settings could lead to a significant risk that the

1 effectiveness of the NCF in terms of expertise and
2 resources would dilute the intended focus of its work
3 for those who have experienced institutional child
4 abuse."

5 Does that reflect the sort of approach that you've
6 mentioned in your evidence?

7 A. I think so, yes. I ... (Pause).

8 I think there's an issue too around the survivors
9 who called for the work. One of the groups, FBGA, was
10 based on Quarriers, so that was a network. INCAS
11 included survivors from foster care as well, but
12 primarily they were looking at institutional care.

13 I think it's true to say that particularly at the
14 earlier stages of the work of the survivor groups, that
15 there was a focus on residential care. I think it was
16 broadened out later in terms of the work that we may
17 come on to.

18 We touched on the issue of whether you focus on
19 child sexual abuse as opposed to all forms of abuse.
20 Across the world inquiries have been framed -- you have
21 to draw boundaries somewhere and you will know in terms
22 of the boundaries for this Inquiry, there were questions
23 and difficulties. As soon as you draw the boundaries,
24 one group's going to be included, another group's going
25 to be excluded, and it's where those boundaries were

1 being drawn.

2 I think in the early stages of the work around
3 survivors of abuse, it was that idea that the boundaries
4 needed to be drawn quite tightly around institutional
5 care.

6 LADY SMITH: I hear what you're saying, Professor, about the
7 particular survivor groups that were talking to the
8 government at the time, and obviously I've heard a lot
9 of evidence about that, but this term "residential care"
10 is a wide term covering the circumstances of any child
11 that is not able to live in their own home with their
12 own family, their own parents. I'm just wondering
13 whether what we're also seeing here is something of
14 an assumption that if a child's in foster care, it will
15 be fine --

16 A. (Witness nodded)

17 LADY SMITH: -- that's a child in a quasi-home setting.

18 A. (Witness nodded)

19 LADY SMITH: The child's really at home of sorts.

20 A. That's right. Throughout my research on children in
21 care, in residential and foster care, there's always
22 been this ambiguity around residential care and it has
23 often been contrasted with foster care and family care.
24 You can see in those ambiguities, you know, sort of
25 dichotomies. Residential care is unsafe, the family

1 care is safe. Residential care is institutional, foster
2 care is familial.

3 Even in those basic -- you've had this tension about
4 the nature of residential care and I think that this is
5 part of that conceptualisation of care services.

6 LADY SMITH: Thank you.

7 MS INNES: I think there we see in the next paragraph that
8 he refers to having commissioned a report I think
9 following the committee's recommendation at stage 1, he
10 commissioned a report from CELCIS. The final version of
11 the report was received at the beginning of 5 December.
12 He says:

13 "Five completed responses were received from
14 individuals who had been in foster care only as
15 children, it is my view that the low number of
16 respondents is further evidence that widening the scope
17 of the NCF is not required. The findings therefore
18 support our view that the focus of the NCF should remain
19 on institutional care settings as defined in the Bill."

20 Again, it appears that there was a consultation
21 exercise undertaken by CELCIS.

22 A. I was involved in that process. I think one of the
23 issues was, if you're looking into the past, then foster
24 carers -- we've spoken about foster carers leaving quite
25 regularly, so and looking for foster care children from

1 the past, there's no network. A residential care home,
2 Quarriers, there's that link that brings people
3 together. In foster care, there isn't that link, and so
4 we found it very difficult to identify children in
5 foster care who made the link about what the National
6 Confidential Forum was about at all.

7 LADY SMITH: There also seems to have been no attempt to
8 allow for the possibility of the INCAS response.
9 I think they did respond.

10 A. Yes.

11 LADY SMITH: Being on behalf of survivors --

12 A. Yeah.

13 LADY SMITH: Including foster care survivors.

14 A. Yes, I think that's right. Yes.

15 We were very saddened by the low number in that. We
16 tried very hard to involve children who had been in
17 foster care, but we struggled and the low number was the
18 low number.

19 MS INNES: If we look on to page 3 of this document, I think
20 we see a summary of the findings of that report that
21 you've mentioned and the numbers there.

22 Below the list of numbers, so if we could just
23 scroll down a little bit, please:

24 "The report suggests that the low number of
25 respondents can largely be explained by two factors.

1 "First, that people may not recognise that they were
2 fostered or boarded out, and the isolated nature of
3 their experience may leave some unaware that the NCF is
4 relevant to them.

5 "Second, that people were experiencing consultation
6 fatigue and chose not to participate as they had taken
7 part in other consultations.

8 "Another suggestion is that some survivors assume
9 that foster care is already considered to be
10 'residential care' and that eligibility to participate
11 in the NCF was expected as part of their overall 'in
12 care' experience."

13 Then it was also noted:

14 "There was also confusion among the participants
15 about the purpose of the NCF."

16 Is that a fair summary of the conclusions from that
17 report from your recollection?

18 A. We were trying to consider why we had had such
19 difficulty in identifying individuals to take part in
20 this study.

21 Q. Okay, thank you.

22 Going back to your report again, please, I think we
23 were at page 380. I think you move forward from that to
24 talk about the interaction. At the top of page 383 you
25 talk about the Scottish Human Rights Commission

1 InterAction on historic abuse in care in Scotland.

2 A. Yes.

3 Q. Was the InterAction something that you were involved in?

4 A. Yes. I chaired the InterAction review group from 2013

5 to 2019.

6 Q. At the end of that first paragraph there, you again note

7 that there were calls for foster care to be included.

8 Did that come out through the InterAction at all? Was

9 foster care dealt with?

10 A. Foster care was included in the InterAction.

11 Q. Then ultimately we obviously know that it forms part of

12 this Inquiry.

13 A. Yes.

14 Q. I would like to move on. I'm now moving on to your

15 second folder. Starting at page 462, under the heading

16 "Foster care". You refer there to a paper by Maclean

17 and Hudson suggesting that for the most part, "The mid-

18 to late 1990s and early years of the new century were

19 considerably quieter periods for developments in foster

20 care and adoption".

21 Is that something that you agree with in relation to

22 Scotland?

23 A. Yes. I would say Kirstie Maclean and Barbara Hudson

24 being the experts at that time. I think it was the case

25 that there were earlier developments being further

1 developed, but there weren't any sort of radical shifts
2 over that period.

3 Q. In the next paragraph you say that there was an
4 "increasing professionalisation" of foster care. Can
5 you explain what you mean by that?

6 A. That is moving beyond just paying allowances for foster
7 carers, paying fees for particularly caring for children
8 and young people who may be more challenging.

9 I think there were developments, for example, in
10 looking at whether foster care could be used as
11 an alternative to secure care.

12 By this time in the 1990s there'd been a major shift
13 in terms of the populations of residential care.
14 Whereas in earlier decades quite high proportions of the
15 children would be under 12, by this time very low
16 percentages of children in residential care would be
17 under 12.

18 In foster care primarily they were younger children,
19 so there were schemes to look at fostering young people
20 and adolescents. There was an increase in the training
21 of foster carers to go along with the additional skills
22 that would be needed, generally in terms of -- with the
23 reduction in the use of residential care, children and
24 young people who would perhaps previously have been in
25 residential care were now in foster care. So there was

1 that need for -- that it wasn't just in a sense ... I'm
2 hesitating to use the word "basic" ... basic care and
3 nurture of younger children, but in a sense that the
4 foster care task was much more difficult.

5 Q. You then move on to look at some research on foster care
6 over this period and we see that you refer to some
7 research in relation to siblings in foster care, if we
8 go on to the top of page 463.

9 A. Yes.

10 Q. You refer to a study by Kosonen in relation to
11 separation of eight siblings. That study you note
12 found:

13 "For the majority of children, placement in foster
14 care led to separation from siblings."

15 A. Yes, and that is partly -- especially if you have
16 a large sibling group, then can you identify a foster
17 care placement that can take all those children? So in
18 terms of social work services policies, there was
19 a preference for children and young people to go into
20 foster care and family-based care. If you had larger
21 sibling groups, and even if not that large, three, four,
22 siblings together, it can be more difficult to identify
23 a foster care setting.

24 Q. Okay. It also notes that there was little evidence of
25 plans being made to reunite children with their

1 siblings. Is that in the context of them actually
2 living together again or was that in relation to
3 contact?

4 A. I think even in the 1990s there were still issues around
5 the focus on family contact. Although it was recognised
6 that it was important, how far that was then translated
7 into practice I think was problematic.

8 Q. Then the next heading that you have there is, "An
9 alternative to secure care". I think you refer to --

10 A. Yeah.

11 Q. -- Walker, Hill and Triseliotis looking at fostering as
12 an alternative to secure accommodation. I think that
13 was the type of development that you referred to
14 earlier.

15 A. That's right, yes.

16 Q. If we go on to page 465, at the top of that page, you
17 note, I think, that the evaluation concluded:

18 "... with appropriate remuneration and support,
19 foster carers are willing and able to care for young
20 people whose behaviour is very challenging and may
21 present a risk to themselves or others, and foster care
22 can in certain circumstances provide an effective
23 alternative to secure accommodation. However, the
24 evaluation also identified a number of limitations and
25 risks in supporting this group of young people in the

1 community."

2 So a wider issue, perhaps.

3 A. Yes, I think so, and again it's about the levels of
4 support that need to be put into place. If you were
5 talking about young people at risk of secure care, then
6 there are issues about their own safety and also the
7 safety of others in terms of challenging behaviour.

8 I think it showed that it could be done, but it has
9 to be done well and with the right levels of support.

10 MS INNES: Then you refer to the "Let's Face It!" report
11 from Who Cares? in 2003. Was this work with young
12 people in particular, hearing the voices of young
13 people?

14 A. Yes, this was Who Cares? Scotland who did a -- I think
15 it was a multi-method consultation with children and
16 young people, interviews but also getting young people
17 together to discuss issues around their care experience.

18 I think even in this report they acknowledged that
19 they did less work in foster care than they were doing
20 within residential care at the time. I think "Let's
21 Face It!" was on the 25th anniversary of Who Cares?
22 Scotland, and this was looking at issues.

23 But there were some young people who either were in
24 foster care or who were in residential care and had
25 experienced foster care and talked about their

1 experiences of foster care.

2 Q. Was it a resourcing issue that gave rise to Who Cares?
3 not being able to be as involved as perhaps they might
4 have wanted to be in foster care?

5 A. I think partly it was a resourcing issue, and I think
6 again partly it was about how do you do it?

7 Yes, I think if you've got lots of -- but I think
8 there was still ... (Pause). Children and young people
9 in residential care are clearly part of the service.
10 Children and young people in foster care see themselves
11 as part of a family and maybe don't connect with social
12 work or the ideas about their place in social work in
13 quite the same way.

14 I have got to say, I don't want to put words into
15 the mouths of children and young people in foster care,
16 but I think there is a slight difference in the context.

17 Q. One of the things noted in this report as well as
18 positive experiences, some young people identified
19 discrimination in the household, such as "... different
20 treatment of foster carers' children compared to
21 fostered young people".

22 A. Yes, and there were examples given in the report of the
23 way in which the children in foster care felt separate
24 from or different to the foster carers' own children.

25 Q. Was that in terms of behaviour management or normal

1 family life?

2 A. The one that I remember was that the foster child had to
3 sit at the table and make sure that they ate all their
4 dinner, while the foster carer's children just went and
5 watched TV, eating -- so, you know, different rules.

6 MS INNES: Would that be an appropriate time?

7 LADY SMITH: I think we should take the lunch break just
8 now, Professor, do you agree?

9 A. That sounds okay.

10 LADY SMITH: Very well, we'll give you a bit of respite just
11 now. If we can start again at 2 o'clock, please, that
12 would be very helpful.

13 Thank you.

14 (1.03 pm)

15 (The luncheon adjournment)

16 (2.00 pm)

17 LADY SMITH: Welcome back, Professor Kendrick. Are you
18 ready for us to carry on?

19 A. Absolutely, yes.

20 LADY SMITH: Great.

21 Ms Innes, when you're ready.

22 MS INNES: Thank you, my Lady.

23 Professor Kendrick, we were looking at your report
24 at LIT-000000025, and I think we're on page 465 of that.
25 We just looked at the Let's Face It! report, and below

1 that you refer to another report, "Voices from Care",
2 which was published in 2003, and I think you note it was
3 a consultation questionnaire completed by 111 children
4 in foster care and 103 children of foster carers.
5 I think this was a Scottish study?

6 A. Yes.

7 Q. You cover various things that the children were asked
8 about, what they found good about foster care. Over the
9 page at page 466, just below the bullet points, you
10 note:

11 "The research found that almost a quarter of the
12 children did not know where they were going before the
13 placement, and just under a third did not have any
14 information about the families they were placed with.
15 Although over three-quarters of the children said that
16 they had some choice about their placement, 'almost half
17 said that they would have still liked a greater degree
18 of choice in the future'."

19 That's coming from children themselves expressing
20 a view on choice and information in advance of a change
21 of placement, I think?

22 A. That's right. Although the 1995 Act placed a central
23 principle on hearing the voice of children, I think, you
24 know, in practical terms, either because of emergency
25 placements or sometimes because ... it sometimes wasn't

1 expressed particularly well to children and young
2 people, that they weren't always involved in those
3 decisions.

4 LADY SMITH: Yes, it's quite troubling, isn't it, in that
5 it's allowing for no collaboration, no proper respect if
6 you're not even telling the children who they're going
7 to and where and why.

8 A. That's right. This is going to an earlier period in
9 research that I did on reviews of children in care and
10 I asked social workers whether they'd prepared the
11 children and young people for the reviews and most
12 social workers said yes. When you asked the children
13 and young people, they said no, because often it was
14 done at the last minute in the car on the way, and so
15 children and young people didn't -- although they might
16 have been told, they didn't feel involved in that
17 conversation.

18 MS INNES: In the next paragraph, if we just scroll a little
19 bit, it's noted there:

20 "There was a great deal of instability in
21 placements."

22 You note:

23 "The children and young people gave a range of
24 answers as to what led to the change of placement."

25 Various examples are given. In the final sentence:

1 "While most of the children felt 'happy' with how
2 things were sorted out, a number made suggestions about
3 being listened to by social workers or foster carers or
4 things being done more quickly."

5 Again, does that suggest children wanting their
6 views to be heard?

7 A. That involvement. And reflecting back on previous
8 information about foster carers saying that often things
9 weren't done quickly enough. It's interesting that from
10 the children and young people, they're acknowledging the
11 challenging behaviour involved in these placements and
12 talking about this as partly the reason why placements
13 broke down, but even in that context, or particularly in
14 that context, perhaps, they should be involved in that
15 decision making and about being listened to more
16 quickly.

17 LADY SMITH: Do you think there maybe was a failure to
18 realise listening to children and assuring them you will
19 listen to them does not need to mean that you will do
20 what the children say they want?

21 A. That's right.

22 LADY SMITH: It will mean that you need to take on the
23 responsibility of explaining to children why you can't
24 do what they want, but the result would be that you'd
25 respected them by saying you'd listen and listening and

1 then explaining.

2 A. I think that's right. I think there's sometimes
3 an issue about telling children rather than involving
4 them in a more significant way in that decision-making
5 process and acknowledging. You know, as I said going
6 back to the way that children and young people are
7 acknowledging the challenging behaviour, that that needs
8 to be taken into account.

9 LADY SMITH: Yes.

10 A. And that they know the reasons why, you know, and it's
11 important that -- it's one of the things children and
12 young people in care put right at the top often in terms
13 of the qualities of those who care for them. It's about
14 listening to them. It's not just listening, it's about
15 hearing them and involving them in that process.

16 LADY SMITH: Thank you.

17 MS INNES: In the next paragraph we see:

18 "In relation to family and friends, almost one-third
19 of the children expressed a desire for a greater degree
20 of contact with family, including extended family."

21 Then they raise specific issues about where contact
22 took place, who was there, the length of the visits, so
23 again we see here issues in relation to ongoing contact,
24 some dissatisfaction with that?

25 A. Yes. And other research has shown that the tension

1 between foster carers and contact with the children's
2 and young people's parents that there can be some
3 resistance, not in all cases but there are tensions
4 there and I think that feeds into that.

5 It's also the case that contact with families can be
6 hard for children and young people, because they've
7 been, you know, removed into care and that relationship
8 may be fraught in its own right. But nevertheless,
9 children and young people are very clear about the
10 importance of that contact.

11 Q. Because I suppose here it doesn't say who has determined
12 the length of the visits, for example.

13 A. That's right.

14 Q. Whether that's been determined by the social work
15 department, by someone else or the parents themselves.

16 A. Yes. No, that's right.

17 Q. At the end of this page the last sentence there says:

18 "The issue of police checks was raised by over
19 one-third of respondents and the feelings of
20 embarrassment, anger and sadness that resulted from
21 this."

22 Can you explain what's being discussed there?

23 A. This was a longstanding issue, that if children and
24 young people wanted to go on an overnight stay with
25 friends, then the friend's family would need to undergo

1 a police check. That's now changed, but over this
2 period it was an issue that was raised consistently by
3 children and young people.

4 Q. If we go on to page 468, please, the children and young
5 people were asked to list three things that would make
6 foster care better. You've noted a variety of different
7 things there. To begin with:

8 "Social workers should be better at communicating
9 with young people.

10 "Social workers should identify and understand
11 a child's needs better.

12 "Better contact with family and friends.

13 "Siblings should be kept together where possible."

14 Then further down we see bullet points about more
15 information about placements and number of placement
16 moves should be fewer and such like. I assume you took
17 all of that from the list in the report?

18 A. These are all from the report and I think these are
19 issues that come up time and time again in reviews, in
20 different aspects of research.

21 I do want to, if I could, just refer to page 467.

22 Q. Yes, please.

23 A. This is a study where, in the second paragraph:

24 "When asked whether they felt that they had received
25 enough help from their foster carers, almost 90 per cent

1 of the children and young people said that they had
2 'received invaluable help from their carers, and the
3 general feedback on the effectiveness of carers was
4 positive'."

5 Because again I think it's important, and this study
6 gives that balance in terms of: although all these
7 issues are being raised, nevertheless there's
8 a generally positive feedback in relation to foster
9 care.

10 Q. Yes. Finally just on page 468 under the bullet points,
11 one of the suggestions was that there should be a group
12 for young people in foster care. I assume that was
13 while they are in foster care --

14 A. That's right.

15 Q. -- that they could maybe connect with other young people
16 in the same situation.

17 A. Yes.

18 Q. I would like to move on a little bit,
19 Professor Kendrick, to page -- move on also quite
20 literally to page 469. At the bottom of that page you
21 start a section on, "The quality of fostering services".
22 If we go on to page 470, you refer to two inquiries, the
23 Edinburgh Inquiry and the Fife Inquiry, which I think
24 arose primarily from issues in residential care but also
25 touched on foster care?

1 A. Both inquiries commented on foster care, although the
2 abuse that led to the inquiries in both was in
3 residential care, but they also looked at broader issues
4 in terms of childcare services.

5 Q. Could we look first of all at the Edinburgh Inquiry
6 report, it's SGV-000024049. We see that was published
7 in January 1999. If we could go on, please, to
8 page 216, we see here, Professor, a section headed,
9 "Foster care", and there's an introduction on the
10 numbers in foster care at that time in the city of
11 Edinburgh at the time, 317 in foster care, compared to
12 129 in residential units. It notes that 72 of the
13 foster placements are with carers approved by voluntary
14 organisations or other Local Authorities. So that
15 distinction is drawn.

16 There's then a note --

17 A. Just to comment, it tended to be that in the cities
18 foster carers were often not in the city itself but in
19 surrounding areas.

20 Q. Then:

21 "The director of social work's written submission."

22 Refers there at paragraph 13.2, refers to:

23 "A rigorous selection and assessment procedure for
24 foster carers based upon legal requirements. The
25 submission commented that such rigour was necessary

1 because the nature of foster care means that young
2 people are cared for within the carer's home without
3 external scrutiny for lengthy periods between the visits
4 of social work staff."

5 I suppose that's one of the things again going back
6 to your Tayside report that you commented that it was
7 essentially all the more important to get the selection
8 right at the start?

9 A. That's right, yes.

10 Q. Then we have a paragraph on research into abuse in
11 foster care and I think this just refers back to the
12 Kent report?

13 A. That does, yeah.

14 Q. Then they note out their methodology. As you've
15 indicated, this report arose out of an issue in
16 residential care, but foster care was dealt with. They
17 say here our consideration was based on meetings with
18 staff, perusal of policy papers and meetings at the
19 homes of three foster families. Information was sent
20 out to all carers and young people that they spoke to in
21 residential units had experience of foster care which
22 they shared.

23 Then they set out a number of points, first of all
24 dealing with the general standards applied in the Local
25 Authority.

1 If we could go onto the next page. Under,
2 "Recruitment", so 217, 13.7, yes, "Recruitment". They
3 first of all note that they were given paperwork and at
4 13.8 they say:

5 "Senior social work staff indicated to us the
6 difficulties in recruiting sufficient foster care
7 placements."

8 Is that shortage of foster care placements an issue
9 that has been ongoing?

10 A. Ongoing. I mean I think I commented on it when I talked
11 about the research on residential foster care in the
12 early 1990s. It's been ongoing since and up to the
13 present day, concerns about the numbers of foster
14 carers.

15 Q. At paragraph 13.9 they noted that they were reminded by
16 staff that foster carers cannot be recruited in
17 isolation from other staffing developments, so the
18 greater the number of foster carers, the greater number
19 of skilled staff to support them.

20 A. Yes.

21 Q. Then there's a section "Training", and at 13.10 we see
22 that it's noted:

23 " ... all carers underwent training on sexual abuse
24 and safe caring."

25 We know that in your Tayside report you had

1 recommended to that regional council specific
2 training --

3 A. Yes.

4 Q. -- in relation to sexual abuse. Here it appears that it
5 was being offered in Edinburgh in 1998/1999.

6 A. Yes, and in the previous report there was the reference
7 to the Strathclyde training, as you know.

8 Q. Yes.

9 A. So there was training being developed.

10 Q. At paragraph 13.12 it says:

11 "While some children looked after by the Council
12 need little more than good quality caring, substitute
13 parenting, others have more complex needs. Whilst we
14 believe that the current level of training undergone by
15 foster carers is a significant safeguard, we have met
16 some young people who would benefit from more
17 specialised foster placements where a higher degree of
18 training and support is required. We know that the
19 department is aware of this and have no specific
20 recommendation to make in this regard."

21 This seems to distinguish between I think what you
22 said earlier in your evidence, you hesitated --

23 A. Framed it better than I did, let's say that. But that's
24 right. It's acknowledging at this period, particularly
25 at this time -- there'd been the major reduction of the

1 numbers in residential care -- that foster carers were
2 being asked to care for children with more challenging
3 behaviour. That links to the professionalisation of
4 foster carers over this period. I think this is
5 acknowledging that this needed to be taken further.

6 Q. Then under (d) there's reference to supervision and
7 support and the Quality Standards document which I think
8 was referred to earlier, an internal document. At
9 13.14:

10 "Support for carers is provided by a resource team
11 worker, whilst that for the child is provided by the
12 child's own social worker. This ensures that neither
13 supporter has a conflict of loyalties."

14 I think again earlier in your evidence you had said
15 that at an earlier period of time, sometimes a social
16 worker would be dealing with both.

17 A. Yes.

18 Q. Certainly it appears that in Edinburgh by this time that
19 had changed?

20 A. Yes.

21 Q. Did that change more generally?

22 A. I think this was being developed. Again, I think it's
23 being linked to the acceptance of the broader need to
24 support foster carers in terms of the range of different
25 placements that they might be involved in.

1 Q. If we can go to page 218, there's a heading,
2 "Identifying and expressing concerns". At 13.16 we see:
3 "The theory is that the child's own social worker is
4 the support for the child."
5 Although it was noted that some children had no
6 allocated social worker. Then at 13.17 it says:
7 "After the initial placement, the frequency of
8 contact between child and social worker varies, although
9 most social workers visit fortnightly. It was
10 acknowledged that there was a danger of the child
11 feeling out on a limb. That was not because that kind
12 of support was not appropriate, but because the practice
13 team staff found it difficult to allocate the time
14 required to ensure continuing oversight and build up
15 a trusting relationship with the child."
16 Is that again something that you've seen through
17 your own work, that again a trusting relationship needs
18 to be built up, but a social worker doesn't necessarily
19 have the time to be able to do that?
20 A. That's right. And that, you know, social workers with
21 heavy case loads could see that once a child or young
22 person is in a good, stable foster care placement, then
23 the priority is lowered in comparison with other cases
24 on their case load. That is an issue to do with
25 resources, and obviously saying -- obviously in this

1 case there were issues in terms of resources of social
2 workers, if a number of children weren't allocated
3 a social worker.

4 Q. It goes on to note at paragraph 13.18 that a group of
5 social work staff that they met said that in their view
6 foster children were more vulnerable than those in
7 residential care, and there's specific reference to
8 a foster parent who had fostered Edinburgh children, but
9 resident outwith the city, had been sentenced to
10 a period of imprisonment. This seems to be again
11 an issue that I think has been highlighted already in
12 your evidence --

13 A. Yes, yes.

14 Q. -- about perhaps there being a greater vulnerability or
15 a risk, given the nature of the setting.

16 A. The isolation of foster caring in the sense of it being
17 in a private family rather than in a residential home,
18 where there are different -- which has a different
19 context of safeguards.

20 Q. Then at paragraph 13.19, again the staff group indicate
21 that practice team workers were beleaguered with child
22 protection cases, duty, et cetera, and would those be
23 the sort of --

24 A. Yes.

25 Q. -- pressing priorities that you mentioned a moment ago?

1 A. Yes.

2 Q. So an urgent issue has arisen --

3 A. Statutory child protection cases.

4 Q. Then it's noted that it would be more difficult to find

5 time to be a regular feature in a child's life than when

6 social workers had a generic case load? What's that

7 referring to?

8 A. Earlier social workers may have had children's cases,

9 adult's cases, so dealing across a range of service

10 users rather than it being seen as the statutory child

11 protection cases, in a sense the hard end of social

12 work.

13 Q. Okay. Then it's noted:

14 "Although designated as a child support, sometimes

15 the social worker would devote more time talking to the

16 carer."

17 A. (Witness nodded)

18 Q. And:

19 "Workers needed to ask children the right questions

20 and give them time to talk. They needed to be clearer

21 with children that it was okay to raise safety issues

22 with them."

23 Again, that seems to be referring to the voice of

24 the child?

25 A. Absolutely, and again referring back that children and

1 young people in foster care, you know in terms of the
2 Tayside report, only one had confided in the social
3 worker in terms of some of the consultations with
4 children and young people. The social worker was seen
5 in a less favourable light by children and young people.

6 Q. At paragraph 13.20 we see again lack of time in carrying
7 out responsibilities and the issue of:

8 "... whether an independent person should be
9 appointed to fulfil this role. The planning, purchasing
10 and commissioning manager of children and families
11 expressed concern at the idea of introducing another
12 independent person into the child's life, how could one
13 be sure that this person was trustworthy? It was also
14 possible that a child's life might become crowded out
15 with people, which could be unsettling. Especially
16 where the foster placement was long term and there was
17 a need to normalise it. Constant questioning and search
18 for reassurance that all was well could detract from the
19 child's necessary feeling of security."

20 Again, is that an issue that we've seen before in
21 relation --

22 A. That's right.

23 Q. -- to the independent or Kent's external eyes?

24 A. Yes, it's that idea of balance. What balance do -- in
25 terms of both residential and foster care, you know,

1 when do the external eyes become, you know, spooky, as
2 it were?

3 Q. At 13.21 there's reference to:

4 "Senior social work staff expressed their opinion
5 that the lack of foster care placements had a knock-on
6 effect on safety issues."

7 They say that:

8 "... that's a dilemma for resource team workers and
9 that they are responsible for providing sufficient
10 placement and for giving support to the carer. In the
11 Inquiry's view, this could lead to overoptimism about
12 the ability of the carer to cope and underestimation of
13 the significance of any concerns."

14 Again, I think this is a familiar theme?

15 A. That's right, yes.

16 Q. Looking towards the bottom of this page, please, if we
17 can just scroll down to the bottom. There's
18 a recommendation here that investigations into
19 allegations against foster carers be carried out by
20 an independent person with no responsibilities for
21 foster care provision in the area. Do you know what
22 this is about?

23 A. I think it relates to Roger Kent's recommendation about
24 having someone external to the Local Authority to
25 undertake such a review, because at that time it would

1 be -- it would normally be another individual within the
2 social work department who would carry that out.

3 Q. I think we see at the end of paragraph 13.27 a report
4 from a former employee. At the end of that paragraph --
5 well, it says:

6 "The department instructed an internal
7 investigation, but against guidelines this was carried
8 out by workers from the district within which the carers
9 operated. The carers were highly regarded as foster
10 parents, although one social worker had expressed
11 reservations. The concern was that the failure to carry
12 out a more independent investigation had left children
13 placed with these carers at potential risk."

14 A. Yes.

15 Q. Okay.

16 A. It all tied up with shortage of carers, shortage of
17 placements. You know, what are the consequences going
18 to be in terms of decisions made in such investigations.

19 Q. If we continue on page -- I think are we on page 220?
20 Thank you.

21 In the middle of that page we have
22 recommendation 113. There is a recommendation that:

23 "... the director of social work evaluate current
24 practice with regard to response to concerns expressed
25 by foster carers about children and young people that

1 they have looked after, with a view to ensuring that
2 this takes appropriate account of the valuable insights
3 that they may be able to contribute with regard to the
4 welfare of those children."

5 This seems to be more about listening to concerns
6 that the foster carers are expressing perhaps about or
7 on behalf of children.

8 A. I think listening in terms of both foster carers'
9 concerns and children and young people's concerns, yes.
10 But certainly needing to engage with foster carers about
11 issues that they have identified.

12 Q. Just below that, we see a heading, "Keeping watch", and
13 we see a heading, "Inspection":

14 "Foster carers are subject to vetting on appointment
15 and certain material standards are required of foster
16 homes before approval. However, they are not subject to
17 the regular and formal inspection of ELRIS in the way
18 residential units are."

19 Do you know what ELRIS was?

20 A. No, I don't recall, actually.

21 Q. I think we might hear evidence that it was something
22 specific to Lothian region, an inspection service that
23 they set up.

24 If we move on to page 221 --

25 A. I take it then it will have been the Regional Inspection

1 Service.

2 LADY SMITH: Probably Edinburgh and Lothian Regional

3 Inspection Services. I think so.

4 MS INNES: If we move on to the next page and again just

5 slightly down the page to recommendation 114, we see

6 that this Inquiry endorsed:

7 " ... Kent's proposal that foster care be brought

8 within the inspection process. All foster care

9 placements should be inspected. We recognise this may

10 need to be phased in."

11 A. (Witness nodded)

12 Q. Here when they're talking about inspection, they talk

13 about inspection of the foster care placement rather

14 than inspection of the fostering service.

15 A. Yes.

16 Q. Can you recall what Kent's position was on that? Was it

17 more to do with the service rather than individual

18 placements?

19 A. I think it was more to do with the service, and then, as

20 I said, then it was taken forward in terms of the

21 general regulation inspection of social work services.

22 LADY SMITH: That's quite an important difference, though,

23 isn't it?

24 A. It is. But at this point in time, you have the

25 children's in care reviews on a regular basis -- well,

1 it should be on a regular basis. We've discussed the
2 issue of Foster Care Reviews. You could argue that that
3 inspection process could be dealt with by other
4 mechanisms to ensure, and certainly in terms of a child
5 in care reviews, it could well be chaired by
6 an independent reviewing officer in some Local
7 Authorities.

8 So important differences, but I think you could
9 argue that there were mechanisms in which that could be
10 taking place.

11 MS INNES: If we could move on, please, to page 222.

12 There's a heading there, "Children's rights officer",
13 which you've mentioned already, and they say that
14 they've found that the children's rights officer didn't
15 visit placements on a planned basis and I think we maybe
16 see a little more about that under the Who Cares?
17 Scotland heading. So paragraph 13.43:

18 "The Who Cares? officer did not visit foster
19 children on a planned basis."

20 The next paragraph, 13.44:

21 "There are very practical explanations for this
22 situation with regard to the CRO and the Who Cares?
23 officer. As the Who Cares? representative pointed out,
24 he is already stretched trying to keep in touch with 30
25 residential units, it would be impossible to extend

1 visiting to 300 foster placements. A more practical
2 solution would be to arrange for gatherings of foster
3 children to provide mutual support and open up channels
4 of communication, but that too presented problems.
5 Foster children tended to be younger, there could be
6 practical difficulties in getting together. Even
7 communicating with them was problematic."

8 Does that go back to some of the issues that you
9 highlighted when you were discussing the Who Cares?
10 Let's Face It! report?

11 A. That's right. Also paragraph 13.45:

12 "... indicated that it was difficult to get children
13 in foster care to go to Who Cares? meetings."

14 Again I didn't phrase it very well, but it's that
15 idea of not -- of especially younger children who tend
16 to be in foster care not relating to some of these
17 issues.

18 Q. Then there's a heading, "The vulnerability of foster
19 children". At 13.46 it's said:

20 "Foster children are the youngest, most vulnerable
21 and most isolated group of looked-after children."

22 Is that a fair assessment in your view?

23 A. Again, I think that reflects what we've commented on in
24 relation to other reviews and research.

25 Q. Then I think again at paragraph 13.47 they highlight

1 issues in reaching foster children.

2 At 13.48 they say that they themselves found it
3 difficult:

4 "How could we contact foster children in a way that
5 made sense to them? Would it be too intrusive for us to
6 visit their homes? To what extent should we involve
7 their carers? How free would the children feel to speak
8 to us?"

9 If we go over the page at 13.49 they say:

10 "In short, it is generally recognised that we do not
11 do enough for foster children. This is a national
12 problem, not one particular to Edinburgh."

13 Is that something that you would also agree with?

14 A. Yes. Yes, certainly. Again picked up in other research
15 and inquiries and in the research that I've done.

16 Q. Below that, we see a section, "The carers' perspective".
17 At 13.50 they note:

18 " ... support given by carers to children was
19 impressive. They in turn spoke well of the support they
20 received from the department and the support children
21 received from their social workers, who visited
22 regularly."

23 Then there were some concerns noted in relation to
24 the thoroughness of the carers' assessment, their own
25 preparation to receive children and their own support

1 from resource workers.

2 I think we saw that again --

3 A. Yes.

4 Q. -- in other research.

5 At paragraph 13.52 it says:

6 "Two of the carers suggested that unannounced visits
7 by social work staff would be an added safeguard.
8 Currently, they were invariably courteously informed
9 before all visits by field and support workers of their
10 intention to call. In their view, the predictability of
11 visits could allow carers to cover up any inadequacies
12 in their standards of care."

13 Then I think we see a recommendation that there
14 should be occasional unannounced visits. Is that
15 something that you've come across in your research, this
16 idea of an unannounced visit?

17 A. I don't recall anything specific about this. I think
18 there is an issue which I touched on in that foster care
19 placements were often at a distance and an unannounced
20 visit may also be a wasted visit. Again, so there are
21 issues about practicalities there, of travelling at
22 a distance to find that the foster carers are out, the
23 children are out. But I don't recall it being raised as
24 a recommendation in relation to other inquiries.

25 Q. If we just go on to the final page of the foster care

1 section at 224, at 13.54 the Inquiry noted:

2 "Foster children are excluded from many of the
3 safeguards currently available for other children looked
4 after by the Council. This is a matter of great
5 concern. Efforts must be made to extend ... safeguards
6 to them."

7 What sort of safeguards do you think that they were
8 referring to?

9 A. I think this partly is about external -- you know, the
10 role of advocacy, the role of children's rights
11 officers. In a sense the gaps in terms of scrutiny by
12 social workers and the social work department, in that
13 it may be that, you know, there isn't a great deal of
14 a focus, particularly in what are considered long-term,
15 stable placements, on the risks that may be there.

16 LADY SMITH: Is there some room for thinking to the effect
17 that provided foster carers have been carefully and
18 appropriately selected, a child in foster care has
19 something that the child in institutional care doesn't
20 have, namely one or two adults specifically appointed to
21 be responsible for them and their care, and therefore
22 could presumably be expected to fight their corner, be
23 conscious of their rights and so on?

24 A. (Witness nodded)

25 LADY SMITH: That thinking then falls down --

1 A. Yes.

2 LADY SMITH: -- if you make no allowance for the risk that
3 actually they're not good foster carers at all, but
4 perhaps one has to make some allowance for that being
5 a legitimate factor to include in your thinking?

6 A. I think that's right. It always --

7 LADY SMITH: It's difficult.

8 A. -- comes down to the balance in terms of -- and it's
9 been raised earlier. The potential risk may be small in
10 terms of it happening, but the consequences of it
11 happening are huge.

12 LADY SMITH: Yes.

13 A. It's how do you balance trying to identify that small
14 potential for risk to ensure that it doesn't impact on
15 a child dramatically if it does go wrong.

16 LADY SMITH: Yes.

17 MS INNES: Thank you, Professor.

18 I'd like to move on from the Edinburgh Inquiry
19 report now to the other Inquiry report that you mention,
20 the Fife Inquiry. If we can look at document
21 FIC-000000088. I think we see if we scroll down
22 a little bit that this is an independent Inquiry by
23 Anne Black and Ceri Williams published in January 2002
24 and this arose from abuse in a residential care setting;
25 is that right?

1 A. Yes.

2 Q. If I can move on to the part of the report which deals
3 with foster care, if we can look at page 50, please. At
4 paragraph 28, "Foster care for children and young
5 people", we see that the Inquiry notes:

6 "Many of the survivors had spent time with foster
7 carers and had experienced poor and abusive care in this
8 setting."

9 Had this come to light by the Inquiry speaking to
10 people who were in St Margaret's but had also been in
11 foster care and when they were speaking about their
12 experience they also disclosed issues in relation to
13 foster care?

14 A. Yes, that's correct, yes, so these were the survivors of
15 abuse in residential care who had also experienced
16 foster care at an earlier time.

17 Q. Okay:

18 "The survivors were clear that very careful
19 selection of carers was essential. The privacy of the
20 care provided within a carer's home can leave young
21 people more isolated and vulnerable."

22 Again this issue of isolation:

23 "They saw supervision of carers as very important,
24 they also saw a need for access to young people to
25 support and advise them if things were not going well."

1 That seems to be a suggestion about access to
2 another young person?

3 A. Or organisations such as Who Cares? Scotland, who often
4 had -- you know, many of whose advocates will be care
5 experienced themselves.

6 Q. It then says:

7 "Survivors wanted to have arrangements in place to
8 ensure that poor standards of care would be investigated
9 carefully. They felt that carers should not be allowed
10 to continue to care if there was evidence of provision
11 being inadequate."

12 That doesn't seem to be referring to abuse in care,
13 perhaps, it's poor standards of care.

14 A. I think that might reflect that some of these placements
15 were, as it says, back in the 1960s and 1970s when
16 standards would be even less than at the time of the
17 review itself.

18 Q. Going on in paragraph 59, it asks:

19 "What's in place in Fife Council now?"

20 It first of all refers to:

21 "Legislative changes since the 1960s and 1970s have
22 placed more responsibilities on Councils to monitor the
23 care provided in foster care. The selection procedures
24 are comprehensive and an independent panel has to decide
25 whether carers are suitable for the task."

1 That would be a fostering panel, I assume?

2 A. Yes.

3 Q. "Specific questions and discussions on issues of sexual
4 abuse by people in positions of trust should be part of
5 all selection processes."

6 Again something that we saw in your Tayside report?

7 A. Yes.

8 Q. "Carers are reviewed regularly and the views of young
9 people who have been placed there are included in the
10 review."

11 Then I think it goes on to note various other
12 developments in relation to training and procedures.

13 If we go on to page 51, at recommendation 12 we see
14 it's noted:

15 "In the light of recent incidents we recommend that
16 the Council will need to change its policy to ensure
17 that where there is an allegation of abuse against
18 a foster carer, wherever possible all other young people
19 who have lived in the foster home are interviewed about
20 their experience while in care."

21 This recommendation seems to be focused not just on
22 an investigation of the presenting allegation but going
23 back to look at children who previously were in care
24 with the same carers.

25 A. (Witness nodded)

1 Q. Was that something new at that time? Was that something
2 that was being done elsewhere?

3 A. I think it sort of exemplifies the variation in local
4 practice in terms of investigating allegations of abuse.
5 I'm sure in some contexts other children would be spoken
6 to about it, but not in all. It might depend upon the
7 nature of the abuse and other such matters.

8 Q. What would be the purpose of interviewing other young
9 people who had previously been in foster care with that
10 carer?

11 A. This reads as if it's -- that this is more recent.

12 Q. Yes.

13 A. That, you know, should a case arise, then if there are
14 allegations of abuse of one foster child, that it's
15 important that other foster children are included in the
16 investigation of the allegation. That's how I read it
17 anyway.

18 LADY SMITH: The investigation, of course, may not be
19 investigation by the Council. The case may be
20 appropriate for police investigation.

21 A. Yes.

22 LADY SMITH: Is that not right?

23 A. Yes, but --

24 LADY SMITH: Then the Council have to be careful.

25 A. Yes, but again we saw variations in practice, again,

1 this was in the 1990s, about involvement of the police.

2 Sometimes they're involved, sometimes not.

3 MS INNES: Then at recommendation 13 that we see there, they
4 note:

5 "We recommend that the selection process for foster
6 carers needs to include specific attention to sexual
7 abuse and the safety of the care that prospective carers
8 can provide."

9 Again we're seeing reference to sexual abuse and
10 safe care as part of the training for carers?

11 A. Yet that would suggest that it's not happening in Fife
12 at that time, although we've seen that it was included
13 in terms of assessment of foster carers in Tayside and
14 in Edinburgh in --

15 Q. Yes. Okay.

16 If we could go on, please, to page 58, starting at
17 page -- if you go further down the page, please, there's
18 a heading, "Complaints procedures for children and young
19 people". There's a section in the report which
20 continues onto the next page, at the top of page 59,
21 recommendation 18:

22 "We recommend that the information about any
23 complaint made against a member of staff is kept in
24 a confidential section of their personnel record and
25 this record ought to be checked whenever an allegation

1 is made by a child against that member of staff. For
2 foster carers, it is equally important that allegations
3 are collated and that the allegation, the action taken
4 to resolve them and the ultimate resolution of the
5 concern are all recorded on the carer's file."

6 Again do we see --

7 A. That reflects again the recommendation that was made in
8 the Tayside study.

9 Q. If we could move on, please, to page 60, there's
10 a heading, "Recruitment and selection of staff and
11 carers". A list of recommendations at the bottom of
12 that page. Recommendation 21, which seems to be in
13 relation to applicants for posts in residential
14 childcare.

15 The same at 22.

16 At 23 there's the suggestion that young people be
17 included in recruitment.

18 Then at recommendation 24:

19 "While the current procedures are thorough, we
20 recommend that there should be a check on the
21 applicant's birth certificate to ensure that a name
22 change does not allow evasion of detection of any
23 previous offences. The Council should also reserve the
24 right to approach all previous employers, not just those
25 put forward as references by the applicant."

1 The language here might suggest this is an applicant
2 for a job rather than a foster carer, but could some of
3 these recommendations, particularly this one, 24, also
4 translate to foster carers?

5 A. Yes. Throughout the 1990s, the first Utting report
6 suggested further work needed to be done on recruitment
7 and selection, and the Warner report focused on
8 residential childcare, but picked up by Roger Kent as
9 important to be taken forward in Scotland. So all these
10 issues around the Safer Recruitment process were being
11 developed in Scotland through the end of the 1990s into
12 the 2000s. Some of those materials did include foster
13 care explicitly in order that that was part of this
14 process.

15 Q. If we look just on the page that we have in front of us,
16 we see that after this recommendation it talks about:

17 "The quality of the recruitment process for foster
18 carers is equally significant in protecting young people
19 in the care of the Council. The selection process needs
20 to be rigorous. We find the independent membership of
21 the fostering panel to be a safeguard for children."

22 Then there's discussion about ongoing recruitment
23 and selection criteria, with a suggestion at the end of
24 that paragraph:

25 "The experiences of survivors of abuse whom we have

1 met need to be considered in developing criteria."

2 Then the next paragraph deals specifically with sex
3 offenders and it says:

4 "It is clear that they look for organisations where
5 the controls, awareness and responses to abuse are
6 weak."

7 And how they're skilful at presenting themselves as
8 competent and suchlike. Does that resonate with the
9 literature review that you did for Tayside?

10 A. Certainly, but also for Kent and also that any context
11 involving children and young people, any organisation
12 has to be aware of the way in which sex offenders will
13 try to access.

14 It's been argued that the focus on Safer Recruitment
15 has actually driven a number abroad, because it's more
16 difficult now, because it is on the agenda. In a sense
17 this was, I think, more of a start of the process of
18 being on the agenda, but that the importance of child
19 sex abuse being involved in selection, being involved in
20 training, was to flag up to potential abusers that we
21 understand this, we understand how abusers operate, as
22 a deterrent to potential abusers.

23 Q. Then this goes on to say that each application form has
24 to be carefully studied, take time to be sure that
25 significant issues are not missed. Referees need to be

1 contacted directly and awkward questions about the
2 person's safety must be raised. That seems to be
3 suggesting a more extensive questioning of somebody
4 who's giving a reference, for example --

5 A. This reflects on the actual abuse in the Fife context,
6 where the abuser moved from one residential setting to
7 another, even though there were concerns being flagged
8 up. Not concerns -- people were aware of concerns, but
9 it wasn't flagged up to the extent and went on to work
10 in another. And in other cases as well, that issue has
11 been raised, that sometimes the solution is to move
12 someone on to another context, to another employment
13 situation. Rather than to actually address the issue.

14 Q. Below that we can see there the various connected
15 recommendations in relation to specific questioning
16 about sex abuse and the standards set for Fife carers
17 should be applied to any carers used by the Council,
18 voluntary or independent fostering agencies are
19 specifically mentioned.

20 A. Yes.

21 Q. Would that be to ensure a consistency of approach for
22 children in the care of Fife Council?

23 A. Well, that's right, because often children and young
24 people were placed outwith the Fife region, in other
25 residential homes or with carers who were managed by

1 independent fostering agencies rather than the Council.

2 MS INNES: I'm going to move on from the Fife Inquiry now.

3 I don't know whether Your Ladyship wants to take a break

4 now?

5 LADY SMITH: A short break now.

6 As you may remember, Professor Kendrick, I usually

7 give the stenographers a short break halfway through the

8 afternoon, otherwise it's a bit of a long haul. If we

9 could do that now if that suits you, is that alright?

10 A. That's fine.

11 LADY SMITH: Very well.

12 (3.02 pm)

13 (A short break)

14 (3.10 pm)

15 LADY SMITH: Professor Kendrick, welcome back again. Can we

16 carry on?

17 A. Absolutely, yes.

18 LADY SMITH: Thank you.

19 MS INNES: Thank you, my Lady.

20 I would like to take you back to your report,

21 LIT-000000025, page 473. There you have a heading,

22 "A strategy for foster care". You say that in the

23 mid-2000s there was an increasing focus on foster care.

24 You then go through a number of consultations and

25 reviews and such like.

1 A. Yes.

2 Q. I just want to ask you about each of those briefly
3 before going on to some other issues.

4 You mention the National Fostering and Kinship Care
5 Strategy Consultation, which ran between December 2006
6 and February 2007. You say:

7 " ... this sought to identify the key issues to
8 ensure that fostered children and young people and those
9 cared for by relatives were given the safe, stable and
10 secure environment that they need. The findings from
11 the consultation were to determine the direction and
12 content of the final strategy."

13 And then themes were identified.

14 A. (Witness nodded)

15 Q. Can you explain a little bit more about what was the
16 background to this and how did it then move forward?

17 A. As I say in the report, I think there'd been very much
18 a focus on residential childcare following on from the
19 Kent review, Children's Safeguards Review, the Scottish
20 Institute for Residential Child Care had been set up.
21 Identifying the need for improved quality of care and
22 for improved training, improved research. My post as
23 Professor of Residential Child Care was linked to that.

24 I think particularly in the context of increasing
25 kinship care, that it was felt that there was a need to

1 take a more fundamental strategic approach to foster and
2 kinship care. The consultation was the start of
3 a process which I think was not exactly, but replicating
4 the focus that had been placed on residential childcare.

5 Q. In relation to this first consultation, you note that
6 six key themes were identified, which are listed there,
7 including support for foster carers and kinship carers
8 and children and young people and issues of funding and
9 financial support, the need for more carers and
10 recruitment. I assume those were the issues that came
11 to the fore during the consultation?

12 A. I think those themes reflect some of the issues that
13 we've been discussing in terms of the safety of children
14 in foster care.

15 LADY SMITH: Indeed, I was about to ask you whether you
16 think there was anything new here. It doesn't look like
17 that. These are issues that have been raised before.

18 A. Certainly issues that had been raised before, but
19 I think that this process -- I think it was recognised
20 that there needed to be a process to address these
21 issues in a more consistent way than had been done in
22 the past, and partly because of -- you know, right at
23 the start, I think when Maclean and Hudson were saying
24 this was a relatively quiet period in terms of
25 developments in foster care, yet, because of more

1 general issues, because of more of a focus on
2 safeguarding children in care, because of issues around
3 the development and professionalisation of foster carers
4 raised issues about funding and financial support of
5 foster carers.

6 All these had been flagging up issues, and up until
7 this point, in terms of the reviews, anyway, the focus
8 had been on residential care, and I think at last it was
9 thought: we really need to look at foster care, we've
10 identified these as issues, so how do we take this
11 forward?

12 MS INNES: And then the next document that you refer to is
13 a strategy document, Getting It Right for Every Child in
14 Kinship and Foster Care. What was the purpose of this
15 document?

16 A. This then is taking forward the findings from the
17 consultation to try to start to implement those and
18 linking it in with the GIRFEC approach and to start to
19 look at how foster care could be improved and children
20 in foster care could be better supported.

21 Q. We see in the next couple of pages of your report that
22 you set out various things that were suggested in the
23 strategy, the importance of various issues and then at
24 the very end on page 476, the final paragraph in this
25 section:

1 "In order to support the strategy, the Scottish
2 Government committed to a review of the existing
3 regulatory framework, a revision of the Guidance to the
4 1995 Act, the introduction of permanence orders by
5 January 2009 and the commissioning of a national
6 training, information and communication programme on the
7 Adoption and Children (Scotland) Act 2007."

8 Were these the areas that the Scottish Government
9 decided to focus on at that time?

10 A. In a sense these were areas that were seen could be
11 taken forward at that point in time, but in terms of the
12 next step, moving forward was yet another stage in the
13 development of the strategy. This focuses on other
14 areas in relation to foster care.

15 Q. Okay. Just below that we see a reference to a document
16 Moving Forward in Foster Care and you say:

17 "In September 2008, the final report of the Kinship
18 and Foster Care Strategy was published."

19 What was the connection between this document,
20 Moving Forward in Foster Care, and the earlier document
21 that we've just been talking about, the Getting It Right
22 for Every Child in Foster Care?

23 A. This had identified three areas. Recruitment,
24 assessment and training.

25 Q. Right.

1 A. So it focused down on specific areas where it was felt
2 there was an urgent need to move forward.

3 Q. You say here at the bottom of this page:
4 "The reference group developed a vision for children
5 in foster care, which included ..."

6 Over the page you have a list of various points.
7 Then there's reference at the end to various other
8 issues, like organisational arrangements, decision
9 making and such like. This reference group was a group
10 of experts that came together to create this?

11 A. Yes. I don't recall who exactly was on it, but, yes,
12 drawn from a range of areas.

13 Q. Okay.

14 A. I think one of the issues is that we saw that there had
15 been -- could say increasing complexity in terms of
16 different types of foster care placements, and that was
17 one of the issues which drove this strategy, was the
18 need to get to grips with that at a national level,
19 because of issues of variability and across different
20 Local Authorities. And the increasing of number of
21 independent fostering agencies.

22 Q. This was published in September 2008. The next document
23 that you refer to just on that page, the National Foster
24 Care Review, you say:
25 "In 2012, as part of its response, the Scottish

1 Government initiated a national review of foster care in
2 Scotland and this reported in 2013."

3 What was the connection between the National Foster
4 Care Review and the various consultations that we've
5 seen in the late 2000s?

6 A. Well, a whole load of things were linked. The Shaw
7 review on residential childcare made a number of
8 recommendations, one of which was to look in detail at
9 residential childcare, the National Residential Child
10 Care Initiative.

11 Coming out of the National Residential Child Care
12 Initiative was a recognition that you can't really look
13 at one bit of the system without looking at the other
14 bits of the system. That led on to the Scottish
15 Institute for Residential Child Care transforming into
16 CELCIS, the Centre for Excellence for Looked-after
17 Children in Scotland, which then is including foster
18 care.

19 As I understand it, the National Foster Care Review
20 was then building up on the previous work to look at
21 foster care as a whole in this context.

22 Q. You say there that it focused on three main areas.

23 Organisation and management of foster carers.

24 Carers' learning and development.

25 And the financial and practical support offered to

1 carers.

2 Then if we go over the page to page 478, first of
3 all you say:

4 "The review recommended that the Scottish Government
5 and other relevant parties should establish a set of
6 clear descriptors for the different types of foster care
7 placements available to children and young people in
8 Scotland."

9 What is that about?

10 A. In the way that short-term placements might mean one
11 thing in one Local Authority and another thing to
12 an independent fostering agency. A permanent foster
13 placement might mean in one context something that is
14 over two or three years and in another permanent.

15 So a whole range of different descriptions of foster
16 care placements were being used, but not in a consistent
17 way. This was seen as important to try and get a common
18 language around foster care.

19 Q. What difference would that make for children?

20 A. So that if you were talking about collaborative working
21 and across geographical areas people would understand
22 what was actually being meant. I trained as
23 an anthropologist and I remember a study -- this is
24 going back even further, I think this was in the 1970s,
25 Nigel Bruce talked about education and social work being

1 two different cultures and the researcher was like
2 an anthropologist. Because of differences in language,
3 differences in perspectives. I think that these issues
4 continue to bedevil, sometimes, care services in how
5 terminology is used, in how language is used.

6 Q. You go on to say:

7 "While it did not support the proposal to set up
8 a national database for foster carers, it recommended
9 that alternative strategies should be explored."

10 Can you explain what's meant by a "national database
11 for foster carers"?

12 A. One of the issues that we've seen is in the context of
13 a shortage of foster carers it was proposed that if
14 there was a national database then this could be
15 accessed to look to see if there was an appropriate
16 placement available at any particular time.

17 The Scottish Institute for Residential Child Care
18 had set up a residential childcare database.

19 It's quite different, you know, setting up
20 a database of individual foster carers as against
21 residential establishments, but I think it was seen as
22 a way to address some of the issues around the lack of
23 choice in placements.

24 Q. Is this something different from registration of foster
25 carers?

1 A. Yes.

2 Q. We'll come back to that.

3 Then you note:

4 "It also recommended that the Scottish Government
5 should set a maximum limit of three unrelated children
6 in a foster care household."

7 I think we've already heard evidence that that was
8 implemented?

9 A. Yes.

10 Q. It then says:

11 "The review considered that further work should be
12 done in relation to foster care allowances and fees."

13 It made a number of recommendations about learning
14 and development of foster carers. Is that a summary of
15 recommendations made at the conclusion of the Foster
16 Care Review?

17 A. Yes, that's correct.

18 I think there was variability in the way in which
19 different Local Authorities paid allowances and fees and
20 it was considered that this needed to be addressed.
21 Although we have seen that there had been developments
22 in terms of training of foster carers, there was no
23 requirement for it. Residential care workers, through
24 the registration process, had to undertake a certain
25 level of training. In a sense this was the first time

1 when there was similar consideration of the need for
2 training for foster carers.

3 Q. Can I ask you, please, now to move on to a different
4 section of your report, so to page 554. This is where
5 you start dealing with different issues in care
6 services. You refer first of all to recruitment and
7 selection. I think on the next couple of pages you
8 refer again to the Kent review, to the Fife independent
9 Inquiry, and if we can look at page 556, we see
10 a heading, "Safer Recruitment Toolkit". You say:

11 "In response to the Children's Safeguards Review,
12 the Scottish Executive funded the Scottish recruitment
13 and selection consortium to develop a 'Toolkit' for
14 safer selection of staff and carers who worked with
15 children. The consortium's remit involved foster care
16 [as well as other areas]."

17 There's a list there of 18 elements for a safer
18 selection process. Can you explain what the purpose of
19 this was and again how it was taken forward?

20 A. This again is picking up on some of the shortcomings
21 that we have seen in terms of the recruitment and
22 selection, both in residential and in the recruitment
23 and selection of foster carers, issues about identity
24 checks -- there's a clear recognition of what
25 capabilities are needed, what the job actually is, and

1 in terms of foster care this may be to do with
2 particular types of foster carer as well. That there's
3 a consistent and rigorous process in terms of
4 application, that there are identity checks. There was
5 a comment about -- I think in the Fife Inquiry about
6 birth certificates and people getting round identity
7 checks.

8 So that all these things need to be put in place to
9 make that process rigorous.

10 Q. If we go on to page 557, at the top of the page it says:

11 "The consortium also advocated the development of
12 the selection centre approach, which involved a process
13 of exercises and tests combining the assessment of as
14 many key aspects of the role as possible. The Toolkit
15 was launched across Scotland in 2001, but without any
16 requirement for employers to implement the
17 recommendations."

18 Do you know why that was? Why was there no
19 requirement to implement what had been recommended?

20 A. Probably issues around resources and the impact that
21 this would take.

22 Q. I think you did some follow-up research, if we just
23 scroll down to the bottom of the page.

24 A. Yes.

25 Q. There's reference to:

1 "Follow-up research on the Toolkit commissioned by
2 the Scottish Executive in 2004 ... was focused on
3 residential childcare."

4 I think you were involved in that research; is that
5 right?

6 A. Yes.

7 Q. After that research, did anything else happen with this
8 Toolkit in terms of safe caring in foster care?

9 A. It has been taken forward, but I don't recall the exact
10 details.

11 Q. Okay.

12 A. But there was a revision of the Safer Recruitment
13 practice, and I can't quite recall when it was. In
14 2014, something like that.

15 Q. Can I move on again, please, to -- sorry.

16 A. Safer Recruitment Through Better Recruitment was
17 published in 2007, and then there was a revision of that
18 in around about 2014, I think.

19 Q. You're referring there to --

20 A. That's on page 560.

21 Q. Page 560 of your report, you refer to the Safer
22 Recruitment Through Better Recruitment, which was
23 guidance applying to a range of services for vulnerable
24 people, including care homes for children and young
25 people in school care accommodation services.

1 I wasn't perhaps clear that that referred to foster
2 care.

3 A. I think it does.

4 Q. Okay.

5 Can I move on to page 564, where you have a specific
6 section on recruitment and selection of foster carers.
7 You say:

8 "The approval of foster carers was addressed in the
9 1996 regulations and then in the National Care Standards
10 Foster Care and Family Placement Services."

11 Can you explain what the National Care Standards are
12 or were at that time, I think this is referring to the
13 2005 edition?

14 A. These were developed in terms of the regulation and
15 inspection of care services, so a range of National Care
16 Standards were developed across the range of services,
17 with specific ones developed for foster care and family
18 placement services.

19 Q. Perhaps if we can just have a look at the 2005 edition
20 of this, it's at ELC-000001637. If we go to page 4,
21 first of all, I think we see there the contents of the
22 various standards divided into services for children and
23 then services for foster carers. I think you refer in
24 your report to standards 5 and 6, so if we can move on,
25 please, to page 19:

1 "Assessing and approving carers."
2 Standard 5 starts by saying:
3 "You know you will be fully assessed by the agency
4 before being accepted as a foster carer."
5 Then there are various statements, which seem to be
6 addressed to the foster carer?
7 A. Yes, it was a pattern used in those standards that the
8 individual to whom the standards would be addressed
9 would be referred to as "you". In some services that
10 could be the child and young person. In this case, it's
11 to a foster carer.
12 LADY SMITH: I'm confused, Professor Kendrick. If you read
13 point 1, "you", so that's me, a person applying to be
14 a foster carer, do I have that right?
15 A. Mm-hmm.
16 LADY SMITH: I can be confident that foster carers are
17 assessed on ability to promote the health, education and
18 personal and social development of "you", so that's me,
19 and any other children and young people in somebody
20 else's care?
21 A. (Witness nodded)
22 LADY SMITH: That reads partly as though it's an assurance
23 to the young people and that's the thinking behind it,
24 not that this is an assurance to those who are applying
25 that there is this sound system.

1 Oh dear.

2 MS INNES: I think the language varies.

3 A. Yes.

4 Q. For example, 5:

5 "You know that the assessment and approval process

6 involves all members of your household ..."

7 But perhaps it's not clear whether it's the child or

8 the carer.

9 A. It may be ambiguous, but I read it that it is addressed

10 to the foster carer.

11 LADY SMITH: I can accept you're probably right about that,

12 but it's not brilliant language, is it?

13 MS INNES: I think at paragraph 7 it says:

14 "You know that the agency will make all necessary

15 checks, including criminal record checks, to determine

16 your suitability."

17 Which would seem to apply to a foster carer.

18 LADY SMITH: That would be the carer, not the child.

19 A. Yes.

20 MS INNES: Did you say that these are standards which were

21 developed against which the fostering service was then

22 inspected by the Care Commission/Care Inspectorate?

23 A. Yes.

24 Q. Right. I think you also refer at 6, if we move on to

25 page 21, and that's similar statements in relation to

1 applications to become a foster carer.

2 If we can go back to your report again, please,
3 Professor. If we can move on to page 568, which deals
4 with training and supervision, in the introduction there
5 you say:

6 "The training and development of residential staff
7 members and foster carers has been a focus of attention
8 for many years. It is only since 2002 that residential
9 care staff have required a particular level of
10 qualification. Much later, in 2014, the Scottish
11 Government made a commitment to bring in mandatory
12 training for foster carers."

13 Do you know if that mandatory training has been
14 brought in?

15 A. It hasn't.

16 Q. Do you know --

17 A. As I understand it, it's because of the Independent Care
18 Review. That it was halted until the review had
19 undertaken its work. It was similar with training for
20 residential childcare workers, because there was
21 a commitment to train them to level 9.

22 Q. Right.

23 A. And that was halted as well. I think later on, there's
24 a reference to this in the Scottish Fostering Network
25 State of the Nation report saying that some of the --

1 there's an issue about things which had been decided
2 beforehand being delayed.

3 Q. Okay. If we move on to page 569, towards the bottom of
4 that page, referring to certain workers registered with
5 the SSSC, in the second-last paragraph on this page you
6 note:

7 "There had been general support for the registration
8 of foster carers in the consultation on the Foster Care
9 Strategy. However, in the strategy itself, this was not
10 seen as the most effective way forward. Rather the
11 strategy proposed improvements to the existing
12 legislative and regulatory framework, in particular
13 regarding the numbers of children in a foster
14 placement."

15 Can you explain what's meant by "registration of
16 foster carers"?

17 A. That would be to include foster carers in that list of
18 workers who would require to be registered by the
19 Scottish Social Services Council.

20 As I said, there had been support that foster carers
21 would be another group who would be subject to
22 registration by the SSSC, but it wasn't taken forward.

23 Q. Okay. Why was it not taken forward?

24 A. I can say no more than I say in the report, that in
25 terms of the strategy itself it wasn't seen as the most

1 effective way of doing it.

2 Q. If we could move on, please, to page 583. There's
3 a heading, "Qualifications and training of foster
4 carers". You refer to the various strategies, I think,
5 which have dealt with that and I think perhaps say
6 a little more about the mandatory training. If we go on
7 to page 584, you're referring there I think to the
8 Moving Forward in Kinship and Foster Care report.

9 A. Yes.

10 Q. And you say:

11 "The report recommended that a mandatory
12 post-approval training programme should form part of the
13 national strategy and that an umbrella organisation
14 along the lines of the Scottish Institute for
15 Residential Child Care should be established to plan,
16 deliver and monitor the training of foster carers."

17 Am I right in understanding that that hasn't been
18 taken forward?

19 A. That's right.

20 Q. Then the report, you note, went on to say:

21 " ... that foster carers in Scotland had access to
22 a wide range of high-quality training but time and
23 resources were often being wasted by organisations
24 constantly reinventing the wheel. To address this
25 problem and to ensure a continued improvement in

1 standards among carers the report proposed that
2 a national coordinated approach to induction and
3 training be introduced and that a continuous learning
4 framework for foster carers as part of the Social
5 Services workforce is developed."

6 In the next paragraph you say:

7 "In 2012 the National Foster Care Review was tasked
8 with developing a viable plan for realising the
9 recommendations of the Moving Forward in Kinship and
10 Foster Care report. In relation to training, the review
11 recommended ... that a national learning and development
12 framework ... should be developed."

13 Then there's discussion of this framework.

14 Did that happen?

15 A. In a sense that's what was being referred to, the
16 mandatory training is what was being referred to
17 previously. Over the page on 585 the Scottish
18 Government accepted that recommendation, including the
19 recommendation to develop a framework which specifies
20 the mandatory learning and development required for
21 foster carers. That's what was put on hold.

22 Q. Over the page, page 585 -- sorry, you're on that page.
23 If we scroll down just a little bit, please, there's
24 a paragraph there:

25 "The implementation of the framework was taken

1 forward and the Standard for Foster Care was developed
2 and this will be discussed further below."

3 So something happened.

4 A. From this point work was taken forward to develop that
5 learning framework, but then at a certain point that
6 work came to an end, as I understand.

7 Q. It wasn't made mandatory?

8 A. No.

9 Q. Could we look, please, on in your report, and this is to
10 current developments in foster care, so at page 638.

11 Maybe I should go back slightly given that you just
12 mentioned the Standard for Foster Care. Can we go to
13 637, please.

14 You mentioned there the Standard for Foster Care,
15 which was published in April 2017.

16 And below the quote you say:

17 " ... despite the previous commitment from Scottish
18 Government, formal qualifications would not be mandatory
19 for foster carers. A range of different learning
20 approaches should be used."

21 Then you refer to the standards setting out
22 different learning areas --

23 A. (Witness nodded)

24 Q. -- which had been developed. I think that's the
25 standard that you were referring to?

1 A. Yes, that's correct.

2 Q. If we go on to the next page, please, 638, there is
3 a reference to a report I think that you mentioned
4 earlier in your evidence, the Fostering Network State of
5 the Nation.

6 A. Yes.

7 Q. The Fostering Network in Scotland published this in
8 June 2019, you note.

9 If we go on to page 639, at the top of the page we
10 see:

11 "While the report highlighted improvements in the
12 proportion of carers with an agreed training plan, there
13 were still gaps in training, particularly therapeutic
14 parenting, behaviour management, mental health,
15 specialised first aid and attachment. The Scottish
16 Government should review the learning and development
17 standard for foster carers. Foster care services should
18 ensure that all foster carers should have an agreed
19 annual training plan that addresses both the core and
20 specialised training required to meet the needs of the
21 children they are caring for."

22 Is that the part of the report that you were
23 referring to earlier in your evidence --

24 A. Yes.

25 Q. -- when you said that this is a concern that's been

1 raised recently by the Fostering Network?

2 A. That's right.

3 And later, on page 641, in the second paragraph:

4 "In launching the report, the Fostering Network was

5 concerned that while the Independent Care Review was

6 welcome, it had inadvertently stalled progress where the

7 need for change had already been clearly identified."

8 Below that it refers to the learning and development

9 Standard for Foster Care.

10 Q. Thank you, Professor.

11 LADY SMITH: You refer at 639 to an agreed annual training

12 plan. Between whom would that training plan be agreed?

13 A. Oh, it would be between the particular foster care

14 service and the foster carers.

15 LADY SMITH: That would be either a Local Authority --

16 A. Yes, either a Local Authority --

17 LADY SMITH: -- or if it was another provider, it would be

18 them?

19 A. Yes.

20 LADY SMITH: Before it could be agreed, would there be

21 a need to address resource implications, for example,

22 for the Local Authority?

23 A. There would, yes.

24 LADY SMITH: Thank you.

25 MS INNES: Just going back a little bit --

1 A. Just to add to that, I suppose, but this is in the
2 context of the early discussions about the need for
3 mandatory training.

4 LADY SMITH: Of course.

5 A. So, you know, service providers of foster care services
6 would have been thinking in these terms anyway --

7 LADY SMITH: Yes, yes.

8 A. -- up until this point.

9 LADY SMITH: Thank you.

10 MS INNES: If we could just go back, please, to page 639,
11 again where you're dealing with various issues that were
12 highlighted in this report, in the second-last paragraph
13 on this page:

14 "Given the importance of stability, there was
15 concern that too many fostered children were
16 experiencing multiple moves and placement instability."

17 I think that's an issue that we've seen through
18 everything, the whole period that we've looked at today.

19 A. Yes.

20 Q. "The Fostering Network recommended that Local
21 Authorities should make an independent review of
22 placement decisions mandatory, and 'with the exception
23 of a child protection concern, placements should not end
24 unless a review has been held and the views of all
25 concerned have been taken into account'."

1 Do you understand what they mean by "making
2 an independent review of placement decisions mandatory"?

3 A. I think this is the Fostering Network expressing their
4 concern about the decision-making processes in relation
5 to children and young people in foster care, and that
6 there needed to be that independent element. Because in
7 many cases there wouldn't be such an independent
8 element.

9 I think it's in a sense linking in with some of the
10 wider discussions we've had about the decision-making
11 process around placement moves and in terms of, for
12 example, foster carers being involved in that process.

13 Q. If we go on to page 640, I think we see highlighted
14 issues there, issues with funding and fees, issues about
15 foster carers taking children outwith their approval
16 range.

17 The final paragraph there:

18 "The survey highlighted issues in the support that
19 foster carers received in the case of allegations of
20 abuse. Fostering services should ensure that foster
21 carers are aware of the implications of allegations made
22 against them, have in place a transparent framework for
23 dealing with allegations, including the same HR,
24 emotional and legal support that would be afforded to
25 their social work colleagues, and they should be given

1 access to independent support."

2 Again, this is from the Fostering Network --

3 A. Yes.

4 Q. -- but they seemed to be suggesting something that

5 I think we discussed in your Tayside report --

6 A. Right at the start.

7 Q. -- this morning about the position of foster carers

8 where they were facing allegations?

9 A. Yes.

10 MS INNES: Thank you, Professor, I don't have any more

11 questions for you.

12 LADY SMITH: Thank you.

13 Professor Kendrick, I don't have any more questions

14 either, so please feel you can relax now. Can I also

15 say a huge thank you to you for all the hard work you

16 have done for us. It's not just quantity, it's

17 quality --

18 A. Thank you.

19 LADY SMITH: -- and it's really, really helpful to the work

20 we're doing.

21 A. I've never seen it printed out before. I don't know

22 whether I want to see it printed out again.

23 LADY SMITH: You should be proud of it, you really should.

24 Thank you so much.

25 A. Thank you.

1 LADY SMITH: I'm now able to let you go.
2 (The witness withdrew)
3 LADY SMITH: It's neatly nearly 4 o'clock, Ms Innes, well
4 done.
5 MS INNES: 10 o'clock tomorrow we have Nina Biehal and
6 Maggie Grant giving evidence in relation to their report
7 on research into foster care.
8 LADY SMITH: Thank you very much. Until 10 o'clock
9 tomorrow, thank you all.
10 I will rise just now.
11 (4.00 pm)
12 (The Inquiry adjourned until 10.00 am on
13 Thursday, 5 May 2022)
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I N D E X

Professor Andrew Kendrick (affirmed)1
Questions from Ms Innes1

