

1 Thursday, 5 May 2022

2 (10.00 am)

3 LADY SMITH: Good morning.

4 Could I first apologise to anyone who is connecting
5 through the WebEx system and anyone who is expecting to
6 see a live transcript at the moment. There is a problem
7 in the system that's operated by the company that
8 provides us with the services. They know that I am not
9 happy about this, but we do need to carry on nonetheless
10 and we are very much hoping that it will be sorted soon.

11 We have now two experts, I think, ready to give
12 evidence, as was indicated yesterday afternoon and
13 they're going to give evidence together as a panel. The
14 observant amongst you will have noticed there are two
15 seats in the witness box waiting for them.

16 Ms Innes, would you like to introduce them?

17 MS INNES: Yes, my Lady, thank you. The witnesses are
18 Nina Biehal and Maggie Grant, who speak to a report
19 which has been published by the Inquiry.

20 LADY SMITH: Thank you.

21 Dr Maggie Grant (affirmed)

22 Professor Nina Biehal (affirmed)

23 LADY SMITH: Can I begin by thanking you both for agreeing
24 to give evidence in this format as a panel of two. We
25 have done it before and it's worked, so we feel

1 reasonably confident that it will work in your case,
2 particularly with the assistance of the excellent report
3 that I've already had from you. You have that in hard
4 copy. You'll also see the documents coming up on the
5 screen, including your report, as and when counsel
6 requires that.

7 If you have any questions or any concerns, please
8 let me know. I usually take a break somewhere around
9 11.30 in the morning, but if either of you want a break
10 other than that, just say.

11 If you're ready, I'll hand over to Ms Innes and
12 she'll take it from there. Is that all right?

13 Ms Innes.

14 Questions from Ms Innes

15 MS INNES: Thank you, my Lady.

16 First of all, if I could introduce you both.

17 Professor Biehal, we have a CV from you, which is at
18 WIT-3-000001178. We see from that, I think, Professor,
19 that you are currently Professor Emerita in the
20 department of social policy and social work at the
21 University of York, and I think you've been at the
22 University of York since 2007. Is that right?

23 PROF BIEHAL: Yes.

24 Q. What are your main areas of interest and research?

25 PROF BIEHAL: All the way through my areas of interest, my

1 research background has all been on children looked
2 after away from home, starting off with care leavers, we
3 did a big study of care leavers, and then as time has
4 gone on, I've focused on a wider age group, often much
5 younger children as well. But it's been about children
6 looked after away from home, increasingly work on child
7 protection more specifically.

8 Q. Okay, thank you. Now, if we look on to the second
9 page of your CV, I just want to ask you about a couple
10 of publications which you highlight. At the top of that
11 page we see that in 2014 under the heading,
12 "Maltreatment in foster care", you together with others
13 published a report, "Keeping children safe: allegations
14 concerning the abuse or neglect of children in care".
15 Did that focus on foster care only or did it also cover
16 residential care?

17 PROF BIEHAL: It covered both foster and residential care,
18 but for the purpose of the current report, I just
19 mention that but then I don't discuss it any more.

20 Q. Okay. We also see in terms of Scotland that in 2019 you
21 published a couple of reports with others through the
22 University of Stirling, I think. The second of those is
23 entitled, "Children looked after away from home aged
24 five and under in Scotland: experiences, pathways and
25 outcomes", and broadly what did that concern?

1 PROF BIEHAL: That was part of a bigger project. Those two
2 publications came from a project called -- about
3 permanence for children looked after away from home, and
4 that was a big -- mainly quantitative to start with.
5 That report was looking at outcomes for those children,
6 it was focusing particularly on children aged five and
7 under.

8 Q. Okay. I think we can see through your CV various other
9 publications that you've highlighted relevant to foster
10 care and child protection more broadly.

11 Thank you, Professor.

12 Dr Grant, can we look at your CV, please, which is
13 at WIT-3-000001181. I think we see from that, Dr Grant,
14 that you currently are with the Adoption and Fostering
15 Alliance Scotland. You're a co-founder and research
16 associate there?

17 DR GRANT: That's right.

18 Q. Prior to that, I think from 2007, you were a researcher
19 and then senior researcher at the British Association
20 for Adoption and Fostering?

21 DR GRANT: Yes.

22 Q. Which I think was the forerunner to Adoption and
23 Fostering Alliance which you currently work for?

24 DR GRANT: That's right.

25 Q. I think we see that you've also been a research fellow

1 at Stirling?

2 DR GRANT: Yes.

3 Q. And a freelance researcher, a research consultant, with

4 Kings College London.

5 DR GRANT: That's right.

6 Q. What are your main areas of research/interest?

7 DR GRANT: So it's been about children looked after away

8 from home, so including children in foster care, but

9 also children who have been adopted or are in kinship

10 care, and recently it's also included children who are

11 unaccompanied asylum-seeking children or trafficked

12 children who have come to Scotland from other countries.

13 Q. Okay. I'm going to come to your report now and as

14 Lady Smith said, the reports are in hard copy and in the

15 folders in front of you, and it will also come up on the

16 screen. I don't know whether it's easier for you to

17 look at the hard copy or look on screen, so do whatever

18 feels best for you.

19 I think both of you speak quite softly, so perhaps

20 if you can make sure that the microphones are a little

21 bit closer to you, that might assist with people being

22 able to hear you.

23 Professor Biehal, I'm going to start with you, if

24 I may, and ask you just about the remit of this report

25 and how you approached it.

1 Your report is at LIT-000000271, and if we go to
2 page 95, please. If you're looking in the hard copy,
3 just to be clear on the page numbers that I'm using, you
4 will see at the very bottom of the page in your hard
5 copy, in the left-hand corner there's a number and
6 that's the number 95 that I'm referring to. I'm not
7 referring to the page number which appears higher up and
8 is the page number in the report itself. If you just
9 concentrate on the page number that's in the right-hand
10 corner at the bottom, then we'll all be on the same
11 page.

12 If we look at page 95, we see here appendix B and
13 it's, "Reviews, aims and methods". You note that:

14 "The aims of the review were.

15 "To update an earlier review of research on abuse
16 and neglect in foster care conducted by the University
17 of York, which covered the period up to September 2009."

18 I think, Professor, that's a research study that you
19 had undertaken or were involved in?

20 PROF BIEHAL: That was an earlier research review as things
21 stood in 2009.

22 Q. Then the second aim was:

23 "To review the available evidence on maltreatment in
24 foster care in Scotland from 1930 to 2020."

25 In relation to the earlier review of research that

1 you had prepared, did that look at Scotland to any
2 extent or not?

3 PROF BIEHAL: Not specifically. I can't quite remember, but
4 if any Scottish studies were available at that time, in
5 fact there would have been one, it would have been
6 mentioned in there, but not specifically.

7 Q. Then below that we see that you were asked to address
8 certain issues, so, "The review aimed to identify and
9 assess the available evidence on", firstly:

10 "Allegations of maltreatment by foster carers and
11 their families, other children in the placement, as well
12 as other adults that may come in contact with the
13 children whilst they were in the foster home."

14 Then:

15 "Substantiated maltreatment."

16 Then:

17 "Nature and severity of maltreatment in foster
18 care."

19 Then the characteristic of perpetrators and of
20 children who experience maltreatment, risk and
21 protective factors for abuse in foster care and
22 reporting of abuse and responses to that.

23 I think that those were the things that you were
24 asked to address in this report.

25 How did you then go about that?

1 PROF BIEHAL: We devised a protocol for identifying studies
2 that potentially had data in them of abuse in foster
3 care.
4 There were two strands to the report, so we went
5 about things in different ways there.
6 The first strand was to update the original research
7 review that I had done that was published in 2009,
8 before I was working with Maggie. Yes, to update that.
9 We set out a protocol here about how we were going to do
10 it and how to ensure that the way in which the
11 particular articles and books were chosen were relevant
12 and would not necessarily be biasing what we were doing.
13 We also set up methods -- about how we would do ...
14 the next page describes how we would do our literature
15 research and the kind of schema we'd set up for that.
16 Then the other strand of the report was about the
17 wider evidence for Scotland, because we were aware that
18 there appeared to be at the start of the review --
19 unfortunately at the end of the review as well -- very
20 little research available in Scotland to date. So we
21 looked much wider than that, with guidance from SCAI, to
22 look at case reviews, official inquiries.
23 What was the other thing, Maggie?
24 DR GRANT: Newspaper and media articles.
25 PROF BIEHAL: That was it, going back to 1930. Anything we

1 could find in terms of policies, reviews, inquiries and
2 in all kinds of media, new media as we got nearer today,
3 to look for broader evidence, not necessarily research
4 evidence, but to take wider evidence into account.

5 Q. Okay. I think you say at page 97 of your report that
6 you also contacted key informants?

7 PROF BIEHAL: Yes. I mean key figures who worked in
8 research on looked-after children away from home in
9 Scotland, who had that specific knowledge for Scotland.
10 They're all listed in the acknowledgements at the front.

11 In fact, I think all of them that we contacted were
12 saying no, we can't think of anyone else who has done
13 anything. We were just asking them for ideas, as well
14 as looking systematically and using systematic methods
15 to identify the studies we should look at, we also just
16 asked open questions with all these contacts in
17 Scotland, like key people in the research world here,
18 who had been around a long time and I think they were
19 mostly retired, but they had experience going way back
20 in the field.

21 But they found they couldn't really think of
22 anything else that we hadn't already found or knew
23 about.

24 Q. Okay.

25 PROF BIEHAL: Because there just wasn't that much for

1 Scotland, sadly.

2 Or, I must say, the UK generally.

3 Q. Okay. Now, you --

4 LADY SMITH: Just before we leave that page, for those that

5 aren't familiar with or don't talk academic, the

6 expression "narrative synthesis" is the expression you

7 use on the last line there. Can one of you explain

8 this?

9 PROF BIEHAL: Which page was this?

10 LADY SMITH: You say "narrative synthesis was used to assess

11 and present the findings".

12 PROF BIEHAL: Yes. There's a thing called systematic

13 reviews, which are very, very quantitative and sort of

14 statistical comparisons and we felt that wasn't

15 appropriate for this review, a lot of qualitative

16 evidence. We came across a thing called narrative

17 synthesis, which is basically looking at the themes you

18 identify and making sense of them and looking across

19 different themes. So it's a kind of dressed up

20 researcher's way of saying we looked at the themes and

21 the available evidence and made sense of them and wrote

22 about it, brought it all together.

23 LADY SMITH: You explained what to your mind they were

24 telling you, the evidence was telling you?

25 PROF BIEHAL: Yes.

1 LADY SMITH: Rather than your findings be dominated by bar
2 charts --
3 DR GRANT: Exactly.
4 LADY SMITH: -- and graphs.
5 PROF BIEHAL: Yes.
6 LADY SMITH: Thank you.
7 Ms Innes.
8 MS INNES: Thank you, my Lady.
9 Then between the two of you, how did you actually
10 then undertake the work and the writing of the report?
11 PROF BIEHAL: Maggie took the lead and in fact did all the
12 work for all the material section 1 about the inquiries
13 and reviews and history and the historical evidence that
14 we could find through newspapers and sources of that
15 kind and I did the bits about the review of the research
16 that we found. But we worked quite closely together
17 throughout.
18 DR GRANT: Yeah, we carried out the initial literature
19 search for research literature, we carried those out
20 together so that we were kind of in constant contact
21 through that phase, checking across a range of different
22 research databases to make sure we hadn't kind of missed
23 potential research.
24 PROF BIEHAL: That's one of the things we were asking the
25 experts in Scotland about, expert child welfare people

1 in Scotland.

2 Q. If we go back to page 8 of your report, we see there
3 that I think these people mentioned may have been some
4 of your key informants, Jane Aldgate, Andrew Kendrick,
5 Malcolm Hill, Barbara Hudson, Kirstie Maclean and
6 various others that you've contacted?

7 PROF BIEHAL: (Witness nodded)

8 Q. Okay.

9 If we move on to the introduction on page 9, you set
10 out some historical background, I think in the next
11 paragraph, the second-last paragraph on the page, you
12 note:

13 "From the early 20th century -- and almost certainly
14 before that time -- newspaper reports on the trials of
15 a small number of foster carers charged with severe
16 abuse and neglect provide evidence that concerns about
17 abuse in foster care have a long history."

18 However, you note that the reports were perhaps
19 infrequent:

20 " ... and it is likely that other children
21 experienced ill-treatment too, which was neither
22 recognised nor reported."

23 I assume that this came from the review of newspaper
24 material that you referred to a moment ago?

25 DR GRANT: Yes, that's right.

1 Q. Then you note:

2 "The first widely reported case of abuse in foster
3 care in Britain was that of Dennis O'Neill ...".

4 But that was then closely followed, I think, by
5 a trial of Scottish foster carers, which we'll come back
6 to in a moment, which again I think was round about
7 1945?

8 DR GRANT: Yes.

9 Q. Did you find quite a lot of material in the newspaper
10 archives about that trial?

11 DR GRANT: Yes, there was certainly a number of articles
12 about both of those cases that we identified. We
13 thought it was important to include the first one
14 because although it didn't take place in Scotland, it
15 was being reported in Scotland and people in Scotland
16 who work with children or were carers themselves would
17 have been -- potentially would have been reading those
18 types of articles.

19 Q. Okay. We'll come back to that again just in a moment.

20 If we go over the page to page 10, in the second
21 paragraph there we see that you make reference to:

22 " ... further official inquiries into abuse in both
23 forecast and residential care ..."

24 You mention the Edinburgh Inquiry and various other
25 inquiries, the Reading Serious Case Review and the

1 Wakefield Inquiry, and then make reference to certain
2 reported cases I think more generally in the UK, and you
3 note:

4 "These high-profile cases can provide no evidence
5 regarding the extent to which abuse by carers occurs,
6 but they indicate that when it does occur, it may in
7 some cases be extremely serious."

8 Why did you draw together reference to these
9 inquiries that have taken place throughout the UK at
10 that point?

11 DR GRANT: I suppose it was part of setting the context for
12 what would follow in terms of looking at the research
13 evidence and I suppose acknowledging that research
14 evidence is part of a much wider set of published
15 materials that were available in relation to
16 maltreatment in foster care.

17 Q. If we can move on to part 1 of your report starting at
18 page 12, please. This is the part of the report
19 I think, Dr Grant, that you focused on?

20 DR GRANT: Yes.

21 Q. It's entitled, "Evidence from media reports, inquiries
22 and reviews in Scotland since 1930". You have a heading
23 that we can see there, "Newspapers and online media".

24 DR GRANT: Yes.

25 Q. Then below that reference to "Print media sources".

1 DR GRANT: Yes.

2 Q. Before we move to the online time, how did you go about
3 searching for material in print media?

4 DR GRANT: This was research done through the British
5 Newspaper Archive, which has a range of newspapers both
6 national and local or regional newspapers, so we were
7 looking for any examples of articles that had been
8 printed in Scotland, and particularly, I suppose,
9 articles that had been printed a long time ago, you
10 know, going back to that period of 1930 onwards.

11 Q. Were you able to find some relevant material within
12 that?

13 DR GRANT: Yes. We've included -- this kind of section of
14 the report lays out the key articles that we were able
15 to find from newspapers, and we've sort of touched
16 already on some of the earlier ones in relation to
17 a case involving two brothers in Scotland, so there were
18 a number of articles in 1945 that looked at kind of
19 different aspects ... I suppose reported different
20 aspects as that trial was happening.

21 Q. Okay. We see, I think, an excerpt of that on page 13?

22 DR GRANT: That's correct.

23 Q. It involved a court case involving two brothers, aged 12
24 and 10, and you note the extreme cruelty shown by their
25 foster carers in Fife?

1 DR GRANT: Yes.

2 Q. Then at the bottom of the page you refer also to the
3 coverage of the death of Dennis O'Neill.

4 Then you go on on page 14 to talk about some of the
5 material that came out of that that you found in
6 articles and you say that these cases appear to have
7 generated much discussion of relevant services and the
8 practise of boarding out of children?

9 DR GRANT: Yes.

10 Q. What sort of material did you find?

11 DR GRANT: I suppose it occurred to us, particularly kind of
12 looking across the whole timeline, that this was
13 a period where there were a number of different articles
14 and I presume that's partly related to the fact that the
15 court case would have taken some time, but there was
16 a couple of articles we've highlighted there. For
17 example, one that describes a report to the Aberdeen
18 Public Assistance Committee, which claimed that
19 conditions in Aberdeen were much better than in England
20 and it just felt like one of those periods where there
21 were a few articles going slightly beyond exactly what
22 was happening with those court cases, to kind of
23 reflect, I suppose, on the implications of those types
24 of cases.

25 Q. I would like to take you briefly to two of the articles

1 that you refer to.

2 First of all, please, LIT-000000239, which I think

3 is an article from the Coatbridge Express from

4 15 August 1945, and we see an article headed:

5 "Mrs Mann on cruelty case."

6 DR GRANT: Yes.

7 Q. "Care and happiness of children first."

8 This seems to refer to an MP for the Coatbridge

9 division making comments in relation to the visiting of

10 boarding-out children?

11 DR GRANT: Yes.

12 Q. She says, for example:

13 "It is the duty of the Department of Health official

14 to scrutinise and countersign a visiting book."

15 DR GRANT: Mm-hmm.

16 Q. "To say that they're satisfied."

17 She noted:

18 "Too frequently books are not signed, she alleged,

19 because children are boarded out in the crofts and

20 hillsides of Scotland, in such instances inspectors

21 sometimes cannot be bothered visiting."

22 Then she goes on from there.

23 DR GRANT: Yes.

24 Q. What did you take from this type of article?

25 DR GRANT: I suppose it called into question some of the

1 practice that was happening at the time. We'll go on
2 later to talk about some of the more recently published
3 articles, but some of those are from adults reflecting
4 back on the care that they received at the time and
5 I think there was some resonance, I suppose, between
6 articles like this that were published at the time and
7 one or two of the articles that were published later.

8 Q. I think she also records there her own experience of --
9 she gives an example of a home that she had visited
10 where she says she never saw the children until she
11 demanded to see them.

12 DR GRANT: Yes.

13 Q. And she found that they were sleeping in a hammock under
14 the stairs:

15 "I always ask two questions of the foster parents.
16 Can I see the children? Where do they sleep?"

17 DR GRANT: Yes.

18 Q. Then another article that you refer to is at
19 LIT-000000237. We see an article, I think, headed:
20 "Fife and boarded-out children.
21 "Conference held after Walton trial."
22 Again I think you mention this in your report that
23 following this trial there seems to have been
24 a conference, I think it says in the article, at which
25 Fife Education Committee officials and the Scottish

1 Secretary attended?

2 DR GRANT: Yes.

3 Q. Again, what did you take from this article?

4 DR GRANT: I suppose it was helpful to have some sense of

5 what happened next, because sometimes very serious cases

6 are reported in newspaper articles but it's not

7 necessarily clear what the Local Authority or the

8 council in the area has done subsequently. So I thought

9 it was helpful to include this just as an example, you

10 know, of what had been happening in Fife after that.

11 Q. If we scroll down a little bit, I think we see a heading

12 in the article, "Improved methods", and there's

13 reference there to certain matters, I think, that the

14 county council suggest that things have improved in

15 terms of healthcare, and in their view it was highly

16 improbable that the unfortunate circumstances would have

17 arisen had their scheme been in full operation.

18 DR GRANT: Yes, and I suppose there's a number of times when

19 I was reading newspaper articles or other sources of

20 evidence and thinking it would have been really helpful

21 to have a kind of more thorough piece of research or

22 something like that carried out at the time, because of

23 course these are quite brief reports and, yes, there's

24 a lot of -- a lot more detail would have been really

25 helpful and interesting to know about what was actually

1 happening, and I suppose the evidence on which they were
2 basing that claim.

3 Q. If we can move back to your report again and if we stay
4 with page 14, where we were at a moment ago, so moving
5 on from 1945, the next case that you mention is in the
6 1990s. Why was there such a big gap?

7 DR GRANT: I think we were always aware when we were doing
8 this part of the report that this wasn't an exhaustive
9 search of all possible articles that could have been
10 published. So the kind of gap there doesn't necessarily
11 mean that there wasn't anything else that was published,
12 but certainly looking back at the earlier newspaper
13 reports, it really was only the most serious cases, for
14 example those that went to the High Court, that were
15 reported in newspapers, so it may be that there are
16 other things that are published that we didn't pick up.
17 But also I suppose our feeling was it was only these
18 particularly high-profile cases that were being reported
19 in the media.

20 Then, I suppose, later on from the late 1990s onward
21 you start to see a lot more things being printed online,
22 which of course makes it a little bit -- you know,
23 they're easier to access if they're open articles.

24 Q. Okay. You mention there that the press reported on two
25 further cases in Scotland in the 1990s.

1 In relation to one of those cases, the first with
2 the couple that you mention, there was a report in
3 a Scottish paper?

4 DR GRANT: Correct, yes, sorry, that first sentence should
5 read, "The press in Scotland reported on two further
6 cases ..." Because the first one mentioned there with
7 reference 19, that was a case that took place in England
8 but was reported in the press in Scotland.

9 Q. The second case that you refer to is at the bottom of
10 the page, a case of historic sexual abuse in West
11 Lothian was reported, and you note that the report says
12 that the woman, who was under 12 years old when the
13 sexual abuse started, disclosed her experience to her
14 social worker several years later. She was described as
15 having been reluctant to disclose the abuse at the time
16 due to fears of losing the experience of family life,
17 despite the persistent sexual abuse she experienced.
18 Why did you draw attention to that in particular?

19 DR GRANT: It felt important to highlight what children
20 might be worried about in terms of disclosing abuse, and
21 I suppose there's a couple of points with newspaper
22 articles, but also some of the other materials we looked
23 at, where children or adults reflecting back on their
24 childhood talked about the fear of what they would lose
25 if they reported the abuse, because of course if they

1 move from that home, it's not just that they're being
2 removed from the care of somebody who's being abusive,
3 but they're also losing all of the other things that go
4 along with living as part of that family, so that might
5 be other people in the household, neighbours -- you
6 know, everything changes for a child if they move from
7 one foster family to go elsewhere. So that felt like
8 something that was worth highlighting.

9 Q. Then you moved on to the online period, as it were, and
10 you've indicated that perhaps it was easier to find
11 material in that period. Again, were there any
12 challenges in identifying cases relevant to abuse in
13 foster care?

14 DR GRANT: Yes.

15 Q. What were those?

16 DR GRANT: I suppose it's that when you put those search
17 terms in, so if you're searching -- this applies,
18 I think we refer to this in terms of searching for the
19 research as well, but if you put the terms "abuse" and
20 "foster care" in, you do get a lot of material which
21 relates to children who have been abused prior to going
22 into foster care. The reports that we've identified
23 here -- our focus was on where abuse and maltreatment
24 more broadly had occurred while children were in foster
25 care, but the searches returned a lot of other results,

1 which were different circumstances for children.

2 Q. Then you highlight some of the material that you found.

3 For example, I think just above the headline that we

4 see there -- I think that comes from the article that

5 you refer to in the final sentence of the preceding

6 paragraph:

7 "Similarly, another man in his 50s described being

8 taken from Glasgow in the 1960s to live in Tír na nÓig with

9 a physically abusive carer who was already caring for

10 another 21 children."

11 DR GRANT: Yes.

12 Q. That's the sort of material that you were able to find

13 in your searches?

14 DR GRANT: Yes, that's correct.

15 Q. Over the page at page 16 there's reference in the first

16 substantive paragraph there:

17 "A male former foster carer was convicted and given

18 a prison sentence ..."

19 I think there's reference there to him disclosing

20 the fact that he'd abused children to a psychiatrist?

21 DR GRANT: Yes, apologies, that's a mistake. It was

22 actually the victim that disclosed the abuse, not the

23 perpetrator.

24 Q. Okay.

25 Then you go on to refer to other material that you

1 found, and if I can perhaps move on, if I may highlight
2 various articles there, to your overview at page 19, to
3 see what you took from the material that you'd found.

4 DR GRANT: Yes.

5 Q. In terms of the media reporting on maltreatment in
6 foster care, I think in the first paragraph you note
7 that the articles were relatively brief, focused on the
8 process or outcomes of court cases.

9 DR GRANT: (Witness nodded)

10 Q. I assume that had some impact on what you were able to
11 draw from the material?

12 DR GRANT: Yes. I think there's two aspects.

13 One is that in general they were reporting on
14 a single legal case, and so of course you have to be
15 careful not to extrapolate from that to assume that that
16 would be all children's experiences or adults referring
17 to abuse that took place in childhood.

18 It may also be a function of being a researcher, I'm
19 very used to reading very long and detailed reports, so
20 by comparison, of course, newspaper and online reports
21 tend to be a lot shorter.

22 Q. In the next paragraph you highlight who the perpetrators
23 were. You say that in the reported cases that you
24 found, they were predominantly male foster carers but
25 also included female foster carers and the child of

1 a foster carer. Why did you make notes about who the
2 perpetrators were and such like?

3 DR GRANT: I suppose because it felt important, not just to
4 make assumptions about who the perpetrators were and it
5 was -- yeah, it just felt important in terms of thinking
6 about the risks that children may face to highlight that
7 that may include both male and female carers, but also
8 other people living with the family or as part of the
9 family.

10 Q. You also note that in several cases the media reported
11 that the perpetrators weren't only foster carers but
12 held other roles that involved working with children.

13 DR GRANT: (Witness nodded)

14 Q. Why did you note that?

15 DR GRANT: Partly because it was just very striking, looking
16 across the newspaper articles or the media articles, but
17 also again, I suppose, trying to just highlight that
18 people that abuse children in foster care may have quite
19 a lot of contact with other children, and may hold roles
20 which I suppose might convince people that they're
21 trustworthy individuals. So it felt important to bring
22 that out of the reporting.

23 Q. Okay. If we can move on to page 20, please, you then go
24 on to look at evidence from official inquiries and
25 reviews, and you go through a number of inquiries and

1 reviews and other reports that you've found.

2 The first one that you mention at the bottom of
3 page 20, or towards the bottom of page 20, is called,
4 "Listen - Take Seriously What They Say", which was
5 a review prepared for Lothian Regional Council in 1993.
6 What did that report concern?

7 DR GRANT: It was commissioned in the context of a member of
8 staff had been committed for offences against girls in
9 residential care, so it wasn't focused on foster care,
10 but in reading the report, the authors were very aware
11 of children in foster care being part of that larger
12 population of children who are looked after away from
13 home. I think we'll probably go on to talk about this,
14 but I suppose that's what we found with a few of the
15 inquiries and reports we looked at, that they included
16 some material that was relevant to foster care or was
17 specifically addressing foster care, but their focus was
18 on residential care or other forms of care.

19 But there were still parts of the report, and I've
20 pulled out a couple of the recommendations there, that
21 would be relevant for children living in foster care.

22 I think one of the -- because it had this sort of
23 focus on complaints, you know, some of those
24 recommendations are very relevant for thinking about
25 children in foster care as well. So thinking about

1 an appropriate level of independence within the
2 department when complaints are being investigated, that
3 would be equally important for children in foster care
4 as it would for children in residential care.

5 Q. Yes, I see you highlight there the need for
6 an appropriate level of independence within the
7 department in terms of the investigation process. You
8 also quote the need for staff to continue the present
9 readiness to hear children and recognise their rights as
10 individuals.

11 DR GRANT: Yes.

12 Q. Which I assume you would say is relevant to both
13 residential and foster care?

14 DR GRANT: Absolutely, yes.

15 LADY SMITH: That expression, "the present readiness",
16 sounds quite confident.

17 DR GRANT: It does.

18 LADY SMITH: I wonder, I wonder whether they actually had
19 the evidence that justified that comment.

20 DR GRANT: Yes.

21 LADY SMITH: They certainly should be. As an aspiration it
22 makes sense --

23 DR GRANT: Yes.

24 LADY SMITH: -- but in the real world, particularly in 1993,
25 when we were in the very early days and foothills of

1 recognising the primacy of child welfare and matters
2 such as the importance of not just listening to but
3 hearing what children are saying.

4 DR GRANT: Yes. I think that's a good point in relation to
5 aspirations versus the circumstances at the time.

6 LADY SMITH: Thank you.

7 PROF BIEHAL: At that point in time as well, it's just a few
8 years after the United Nations Convention on the Rights
9 of the Child. I think that probably did have a wider
10 impact.

11 LADY SMITH: It certainly had an impact on the thinking of
12 those who were in positions of responsibility for
13 driving new initiatives and devising new systems.
14 Whether it was actually by 1993 the way everybody was
15 operating, I wonder.

16 PROF BIEHAL: No, I doubt it.

17 LADY SMITH: I don't think so.

18 MS INNES: You then go on to refer to Professor Kendrick's
19 Predictors of abuse in foster care report. We heard
20 evidence, I think you know, from Professor Kendrick
21 yesterday, so I'll not repeat that at this point.

22 DR GRANT: Yes.

23 Q. Then you refer to the Children's Safeguards Review on
24 the next page, the Kent report, which again we heard
25 evidence from Professor Kendrick about yesterday.

1 I will come in a moment to look at your overall
2 conclusions from those.

3 DR GRANT: (Witness nodded)

4 Q. You refer on page 22 to the Edinburgh's Children
5 Inquiry.

6 DR GRANT: Yes.

7 Q. To be clear, that's something different from the Let's
8 Take Seriously What They Say that we just referred to in
9 1993?

10 DR GRANT: Yes, that was a later one.

11 Q. Then there was a further inquiry in Edinburgh in 1999,
12 again following a High Court case in relation to abuse
13 of children in residential care, but I think you
14 highlight that there were issues raised in that report
15 in relation to foster care.

16 DR GRANT: Yes.

17 Q. Can I move on, please, to page 23, and at the bottom of
18 the page you note:

19 "Within the past decade, a number of reports have
20 been published on the analysis of case reviews in
21 Scotland."

22 You refer to a report, "Audit and Analysis of
23 Significant Case Reviews" in 2012. Can you just explain
24 the context of those reports?

25 DR GRANT: I've talked later on about some of the reports

1 that were done by the Care Inspectorate, but this one
2 was carried out in relation to significant case reviews
3 and initial case reviews conducted in Scotland between
4 2007 and 2012, so I think it feels like quite an early
5 example of that approach to looking across a whole range
6 of case reviews and trying to draw together the messages
7 and the learning from those reviews.

8 Again, although the focus wasn't specifically on
9 foster care, it did include a significant case review
10 involving foster care, and again some of the messages
11 from these kind of analyses would -- some of the
12 messages would relate to any child looked after away
13 from home, so it felt worth including that. The authors
14 kind of talk about that specifically in terms of some of
15 the recommendations that they make would apply to any
16 family type.

17 Q. I see there in your report you mention that the report
18 described one significant case review involving foster
19 care. Then you note at the bottom of that page, going
20 on to the next page:

21 "The analysis highlighted a range of learning
22 points, some of which apply to any family type,
23 including fostering families, such as the need to keep
24 families and carers informed throughout the significant
25 case review, reflect critically on the child's story,

1 experiences and feelings and to explore the reasons for
2 the children's challenging behaviour at school and/or
3 absconding from foster care, and to include information
4 in significant case reviews on whether children and
5 families were informed and involved in the process."

6 DR GRANT: Yes.

7 Q. Were these the relevant recommendations that you thought
8 would apply to foster care as well?

9 DR GRANT: Yes. I suppose I was thinking particularly if
10 you have a child that's been living with a foster family
11 for quite some time and is the sort of family that that
12 child has grown up with, that all of these
13 recommendations would apply as they would for a child
14 who was living with the family they were born into or
15 other family care arrangements.

16 Q. I'd like to have a look at this audit and analysis if we
17 can. It's at LIT-000000240. If we start by looking at
18 page 5 of it, we see there under, "Background" there was
19 reference to national guidance for undertaking
20 significant case reviews being introduced in 2007, and
21 then it says:

22 "There was a commitment within the national guidance
23 to promote national, as well as local, learning.

24 However, in contrast to England and Wales where national
25 analysis of case reviews are commissioned biannually,

1 until now the findings from SCRs have not been collated
2 at national level in Scotland and accessible data on the
3 number of SCRs that have been undertaken has not been
4 readily available. As a result, the value of learning
5 in SCRs to date has been limited, with lessons
6 insufficiently shared beyond local boundaries."

7 Then there's reference to a report, a short-life
8 working group, and then a recommendation that there be
9 this audit and analysis of all SCRs undertaken since
10 2007 to provide a baseline and an understanding for the
11 relevant issues for practice. Does that set the context
12 for this report?

13 DR GRANT: Yes.

14 Q. Prior to this, what understanding did you have of what
15 would happen if there was a significant case review in
16 a Local Authority? Would the details of that be shared
17 more widely or not?

18 DR GRANT: My understanding is that it varies quite a lot,
19 and I think the concern that's sort of reflected in that
20 paragraph is about what happened when that learning
21 wasn't shared more widely and stayed within one Local
22 Authority area, and that this report, and I think some
23 of the other reports from the Care Inspectorate, for
24 example, that took place later, were an attempt to kind
25 of draw out that learning so that it could be shared

1 more widely across the country, rather than just kind of
2 that learning staying within one local area. And to try
3 to kind of identify whether there were things that were
4 happening in different parts of the country that maybe
5 were similar or where there were sort of patterns in
6 relation to that.

7 Q. If we could go on, please, to page 59 of the report and
8 at the bottom of page 59, I think we see in the final
9 paragraph there:

10 "One case involved abuse of four children in foster
11 care."

12 Is this the case that you've mentioned in your
13 report --

14 DR GRANT: Yes.

15 Q. -- that it was an SCR in relation to foster care?

16 We see that it's noted that there were concerns
17 around whether the care was good enough?

18 DR GRANT: (Witness nodded)

19 Q. Then going on to the next page, page 60, I think we see
20 the remaining bullet points highlighted there and the
21 conclusion drawn in the SCR report that the carers
22 didn't have the skills to manage the children and the
23 level of stress on occasions was very high and the
24 foster mother found it difficult to accept support and
25 lacked insight into the needs of the children.

1 DR GRANT: (Witness nodded)

2 Q. I think the report goes on again from there, if we can
3 look, please, at page 67, and towards the bottom of that
4 page in the middle of the page you see a paragraph
5 starting:

6 "Professionals did not always see or listen to the
7 children and, therefore, missed signs of abuse or
8 neglect."

9 The example then given is, I think, the case that
10 you referred to again.

11 DR GRANT: Yes, that's my understanding, yes.

12 Q. I think at the bottom of the page in the final paragraph
13 we see that it's recorded:

14 "Professionals did not explore the reasons why the
15 children had run away or consider that the challenging
16 behaviour they were exhibiting might be due to sexual
17 abuse. The children later stated that they did not
18 think they would have been believed if they had
19 disclosed abuse."

20 DR GRANT: Yes.

21 Q. Were these sort of relevant material that you took into
22 account when you were preparing your report?

23 DR GRANT: Yes, absolutely. I think I mentioned earlier,
24 but it was one of the things that was picked up in the
25 newspaper reporting as well, that children had worried

1 about being believed, that they wouldn't be believed.
2 There's another report that I refer to later, which is
3 adults talking about their experiences in childhood,
4 where adults reported that as children that had been one
5 of their worries.

6 Q. If we can move on again, please, to page 82, and again
7 to 4.3, "Engagement and co-operation", the author notes:

8 "Parental non-engagement is known to be a risk
9 factor for abuse and neglect."

10 Then it talks about what they've drawn from the
11 various SCRs that children and families who were the
12 subject of SCRs were known to and received support from
13 a range of different services. I assume this would be
14 talking about children who were in the care of their
15 parents as well as children who were in care?

16 DR GRANT: Yes.

17 Q. Then at the bottom of the page we see a paragraph:

18 "Engagement was a theme of almost half of the 56
19 SCRs and this is likely to be an underestimate as
20 a number of reports had very little contextual
21 information about families."

22 Then it goes on:

23 "In one of the SCRs a foster carer was reported to
24 be a very independent lady who found it difficult to
25 accept guidance and assistance. She refused all

1 professional support ..."

2 Then below the quote it then says:

3 "The review concluded that the foster mother's

4 attitude to professional support may have given the

5 children the message that professionals cannot make

6 things better even when they are aware of difficulties.

7 'This could have had an impact on the children's ability

8 to disclose the sexual abuse by the foster parents'

9 son'."

10 In that instance.

11 DR GRANT: Yes.

12 Q. Again, was this relevant material that you took into

13 account in your analysis?

14 DR GRANT: Yes. I think again, although they're only

15 talking about one significant case review that related

16 to a child in foster care, that resonated with the

17 reports that I refer to later by Hedy Cleaver and

18 Wendy Rose, where they're looking across case reviews

19 from England, Wales and Scotland. In that case a higher

20 proportion of the case reviews that they were looking at

21 involved children in foster care, and there was a kind

22 of very similar message that comes through in their

23 report.

24 Q. If we can go back to your report again, LIT-000000271,

25 and at page 24, having looked at that report, you then

1 note and had looked at several reports by the Care
2 Inspectorate in relation to Learning from Significant
3 Case Reviews in Scotland, and I think you've said that
4 this type of analysis was then undertaken by the Care
5 Inspectorate, in I think triennial reviews.

6 From looking at these reports that you mention, were
7 you able to identify any significant case reviews in
8 relation to foster care or not?

9 DR GRANT: One of the difficulties with those types of
10 reports is the way that data in those reports is
11 presented, and if it doesn't have a specific focus on
12 maltreatment in foster care, sometimes the data is
13 presented in such a way that it's kind of difficult to
14 know, for example, whether children were in foster care
15 at the time of concern. You know, there are often good
16 reasons why you might not kind of disaggregate data in
17 a report like that, why you might not separate it out
18 into a very high level of detail. You know, for
19 example, in terms of protecting confidentiality and
20 things like that. But it can make it difficult, if
21 you're looking at a particular issue, in our case
22 maltreatment in foster care, it can make it difficult to
23 kind of draw out the information that we were interested
24 in as opposed to that kind of wider reporting, and that
25 was one of the things that we noted a few times in the

1 report, I think.

2 PROF BIEHAL: It's in the parts about research as well,
3 research papers, and data on residential care and foster
4 care were mixed up and you couldn't actually say
5 anything about either.

6 Q. I think we see there at the end of the paragraph that we
7 have on the screen, for example, in relation to the 2016
8 report, you say:

9 " ... it is not possible to identify from the data
10 presented which experiences or outcomes involved
11 children in foster or kinship care and therefore whether
12 any of the significant case reviews related to
13 maltreatment in foster care."

14 I think you say that you were finding there was
15 reference to foster care, but it wasn't clear whether
16 the incidents that gave rise to the significant case
17 review had arisen in foster care or in some other care
18 setting.

19 DR GRANT: Yes, that's right. I think we were just trying
20 to be really careful not to assume something if it
21 wasn't spelled out in this kind of report. As I say,
22 those reports, they had a much wider remit, a much wider
23 focus.

24 Q. If we can look, please, at page 25 and at the bottom of
25 the page you also referred to a report published by

1 Coram BAAF in 2020, Safeguarding Children Living with
2 Foster Carers, Adopters and Special Guardians: Learning
3 from Case Reviews 2007-2019. What did that study
4 include?

5 DR GRANT: Again it was a kind of analysis looking to draw
6 together the themes from a number of case reviews, so
7 serious case reviews in England and Wales and
8 significant case reviews in Scotland. Although it only
9 included one review from Scotland, it had the advantage
10 in terms of our report that I think it's 39 of the
11 reviews or cases involved children living with foster
12 carers, so it was able to kind of draw out some messages
13 that were taken from a number of cases involving
14 maltreatment of children in foster care -- or, sorry,
15 I should say maltreatment and other experiences of
16 children in foster care.

17 I suppose all the way through this part of the
18 report, our focus was on Scotland, but where there was
19 this kind of material it felt important to include it,
20 particularly given the lack of robust and detailed
21 research in relation to maltreatment in foster care in
22 Scotland.

23 Q. If we go over the page to page 26, we see that you draw
24 together -- here what you say is:

25 "A number of important themes that can be identified

1 from the inquiries and reviews carried out in Scotland."
2 You say:
3 "A summary of this learning from the grey literature
4 is presented below."
5 Pausing there, I perhaps should have asked earlier,
6 "grey literature", what is that?
7 DR GRANT: Sorry, that's another research term, isn't it?
8 LADY SMITH: I have to confess it's not one that I find
9 particularly appealing.
10 DR GRANT: It's not, is it?
11 LADY SMITH: It doesn't conjure up a nice visual image.
12 DR GRANT: No.
13 LADY SMITH: I can live with it.
14 DR GRANT: Despite it not being the most attractive term,
15 one of the things -- so grey literature would include
16 the kind of material that we've been talking about so
17 far, so not just research reports that you would get if
18 you were looking for research using some of the big
19 research literature databases. Grey literature would
20 include things like media reports, inquiries, good
21 practice guides, you know, all of the kind of things
22 that we have referred to in section 1 of the report. It
23 allowed us to take our searches more broader than just
24 the research literature.
25 MS INNES: Here when we look at the themes, the first theme

1 that you've identified is an enduring lack of focus on
2 foster care. Can you explain what you drew out in terms
3 of that issue?

4 DR GRANT: It was that when we looked at the inquiries, the
5 reviews, these kind of case review analyses, there just
6 wasn't much that really focused in specifically on
7 foster care, and that, I suppose, felt quite concerning.
8 I know, looking at the reports, particularly in the kind
9 of mid to late 1990s, there were three or four reports
10 that drew attention to a similar concern at that time.
11 We've mentioned already that quite a few of those
12 reports focused on residential care and maybe included
13 some material related to foster care, but because their
14 primary focus wasn't foster care, inevitably that meant
15 that there was less depth about what people were
16 reporting in terms of foster care.

17 Yeah, I mean I'm conscious here that this is
18 something people had been raising for quite some time
19 and the quotes that I include there is from a report
20 published in 1994, which kind of draws attention to the
21 same points, that there wasn't, for example, a large
22 research study focusing on abuse of children in foster
23 care.

24 Q. I think that's from Professor Kendrick's report for
25 Tayside in 1994.

1 DR GRANT: That's right.

2 Q. Over the top of the next page, on page 27 you refer
3 again to the analysis of significant case reviews that
4 you've already mentioned. You say:

5 "It appeared that only one significant case review
6 or death of a child ... involved abuse perpetrated by
7 a foster family."

8 You say:

9 "This finding in relation to significant case
10 reviews seems somewhat surprising considering the rates
11 of allegations identified in UK and international
12 research on maltreatment in foster care -- discussed in
13 subsequent chapters -- as well as the cases described in
14 media and other reports ..."

15 Why did you find it surprising that there was only
16 one case?

17 DR GRANT: I suppose looking at the other sources of
18 evidence, so I know that Nina's going to come and talk
19 about this later, but if we look at the research across
20 the UK there's a finding in there as well that the
21 levels of substantiated abuse that were identified
22 through that research process were lower in Scotland
23 than in England and Wales, but I'm not aware of any
24 reason or any research or other sources that could
25 explain why that might be, so -- I'm conscious in that

1 first sentence I did say I wanted to make clear it
2 appeared that only one significant case review or death
3 of a child in care involved abuse perpetrated by
4 a foster family, because it may be that there were other
5 cases that related to abuse in foster care, but because
6 of the way the data and the analysis was presented
7 I wasn't confident in being sure that there were other
8 cases in those reports.

9 Q. Then you have another theme: the importance of
10 children's perspectives. What were you drawing out
11 under this heading?

12 DR GRANT: I suppose looking across all of the inquiries and
13 reviews, they did talk about gathering information
14 directly from children and young people, or as I say,
15 they're using secondary sources where, for example,
16 there'd been an interview conducted previously with
17 a child, but it was one of the things that many of those
18 reports highlighted as well, was just that importance of
19 talking directly to children and not only taking adults'
20 accounts of children's experiences.

21 Q. At the bottom of that page you highlight that you found
22 little information about what happened next for children
23 and that this continues on to the next page. I think
24 you're talking there about responses to abuse, the
25 impact of abuse and such like, and what issues did you

1 find in relation to this?

2 DR GRANT: I think it was just when I was looking at the
3 reports, of course they sort of tend to stop at
4 a particular time, so it might be when a review process
5 has been complete or when a trial has come to its
6 conclusion. That made it difficult to know what
7 happened next for children who had had these
8 experiences. So where were they living? What kind of
9 support was given to them?

10 And not just in the short term, but over a much
11 longer period, because we know of course that the impact
12 of abuse can last for an extremely long time. I just
13 wanted to highlight that from the evidence that we were
14 looking at, it wasn't really clear what happened next
15 for children, and I referred there to a report, based on
16 a PhD thesis, looking at the long-term impact for adults
17 who had experienced abuse in residential care and in
18 foster care. I suppose just as a way of highlighting
19 that just because a court case has concluded or
20 a significant case review has concluded, that's not the
21 end of the story for the child or the young person.

22 Q. If we go further down that page, you have another
23 heading, "Context of maltreatment", and you say:

24 " ... there was limited detailed evidence in
25 relation to risk and protective factors ... [however]

1 some reports raised or suggested important points about
2 the context in which maltreatment took place."

3 Again, looking at this and on to the next page, what
4 particular issues did you draw out at this point?

5 DR GRANT: I suppose this goes back to the remits of what we
6 were asked to look at, and I wanted to make really clear
7 that we hadn't come across a lot of evidence that could
8 give us really firm sort of data or findings in relation
9 to risk and protective factors. So I wanted to
10 highlight instead some of the context that the authors
11 had talked about in these reports.

12 I think the first reference there is in relation to
13 the report by Professor Kendrick and his colleague. One
14 of the things that they highlighted was children's lives
15 before this abuse was disclosed or was discovered, and
16 including that a lot of children had experienced
17 multiple moves between different family homes, and
18 including two children who had actually been abused in
19 previous placements, and I think although we didn't have
20 firm evidence in relation to kind of risk and protective
21 factors, there were these kind of recurring themes in
22 relation to things that children may have experienced
23 prior to the placement in which they were abused.

24 Also, I suppose, the second point in relation to
25 that is the recording of children's behaviour. It was

1 sometimes described as difficult or challenging, but
2 also just reflecting that, you know, I suppose that
3 often that kind of behaviour may be in the context of
4 very high distress for children.

5 The second part of that context, I suppose, is other
6 things that may be happening for that foster family. So
7 some of the examples they gave were in relation to
8 unemployment or another family member being unwell, so
9 while those wouldn't necessarily relate directly to the
10 abuse, they highlight the context of all of the things
11 that might have been happening within those families.

12 Q. On page 29, in the paragraph that begins, when you
13 scroll down a little bit:

14 "Although only one review from Scotland was
15 included ..."

16 You referred in the middle of that paragraph to the
17 guide, "Safeguarding Children Living with Foster Carers,
18 Adopters and Special Guardians". You note that that
19 wasn't primarily derived from practice in Scotland, but
20 the material resonates with the findings. Can you just
21 explain what you drew out from that publication?

22 DR GRANT: Yes, so that second publication is quite a kind
23 of sort of slim guide, I suppose, whereas the first
24 publication is reports on the full kind of analysis of
25 those case reviews. The second publication, the guide

1 to reflective practice, it looks at the messages from
2 the research and then kind of looks at five key areas
3 and in each of those sections it kind of breaks that
4 down and has a series of questions that practitioners
5 may want to ask themselves.

6 It was one of the few examples that we found,
7 I suppose, that looked at this in terms of practice and
8 kind of trying to translate some of that research
9 evidence into messages that practitioners could draw on
10 when they're carrying out assessments, when they're
11 supporting carers, the kind of questions they might need
12 to ask themselves to avoid assuming that a child in
13 foster care is safe.

14 Q. Then in the final paragraph you conclude by saying:

15 "Looking across the range ... the need for
16 assessments, supervision and decision-making processes
17 to be aware of and consider the potential risk of
18 maltreatment from carers, but also other adults and
19 children with whom children in foster care may spend
20 time."

21 These are all matters that were underlined in that
22 material?

23 DR GRANT: Yes.

24 Q. If we go on to the next page, page 30, we have
25 a heading, "Disclosure", and I think you're looking at

1 reporting of abuse. What issues were you able to draw
2 out in relation to this theme?

3 DR GRANT: I mentioned this earlier before, but in both the
4 newspaper reports or the media reports and the inquiries
5 and reviews there were mention of children feeling
6 worried, feeling scared to disclose abuse, and sometimes
7 that was worrying about what would happen if they
8 disclosed the abuse. Other times it was worrying that
9 they wouldn't be believed. But also sometimes they were
10 worried about what the response would be, whether it
11 would be an appropriate response to that disclosure or
12 not believing that anything would change even if they
13 did disclose the abuse.

14 I've given some examples there from the Predictors
15 of abuse in foster care report of kind of how abuse came
16 to light. Sometimes that was a child disclosing the
17 abuse to another adult in their life, and sometimes, you
18 know, for example there was other times when abuse was
19 discovered because another child had disclosed abuse.
20 I suppose, just trying to draw attention to the range of
21 ways in which abuse may be disclosed or discovered.

22 Q. If we go on to the next page, please, page 31, you
23 conclude this section with some comments on implications
24 for practice and policy. What were your key
25 conclusions?

1 DR GRANT: I looked across all of the different reports and
2 there was quite a few areas that more than one report
3 had looked at, and so these bullet points here sort of
4 reflect the different areas that these reports and other
5 evidence drew attention to. I suppose all of the
6 thinking through all of the different stages of this, so
7 right from the very beginning when foster carers are
8 first being assessed, but then continuing through
9 supervision and reviews of foster carers.

10 Quite a few of the reports referred to ensuring that
11 children's support doesn't just come from foster carers
12 but comes from -- you know, that they have other adults
13 or other people in their lives that they can rely on for
14 support.

15 The training for social workers, panel members and
16 others I suppose is in relation to making sure that
17 anybody who is working with a child in foster care is
18 aware of the potential for abuse, as part of a much
19 broader range of things that needed to be included in
20 training.

21 Quite a few reports -- particularly some of the ones
22 from the 1990s -- had focused on the complaint systems
23 and trying to improve them, both to make it an easier
24 process, I suppose, to make sure that complaints are
25 kind of picked up very quickly, but also that when

1 complaints are picked up, that they're handled
2 appropriately. Some of the earlier reports talked about
3 concerns that complaints were dealt with inconsistently
4 or that there were real delays in following up on
5 complaints, and so children were kind of left -- you
6 know, where abuse had been disclosed or discovered,
7 children were sort of left waiting for something to
8 happen.

9 Then the final point in relation to investigations
10 of allegations and related support, I know we will come
11 on to talk about this in relation to some of the
12 research, but again it was something that appeared
13 across these different reports and reviews and
14 looking -- I suppose, although you have national
15 guidance and you have, you know, the law, all of these
16 sort of national tools, a lot of the day-to-day work,
17 you know, of course occurs at the local level. So there
18 was that kind of process of investigating and the
19 process of support that's put in place for children and
20 for carers or others in the family was something that
21 was picked up on in a range of different reports from
22 different sources.

23 Q. In the final paragraph you note:

24 "The picture remains a partial one."

25 You note that there are particularly urgent gaps,

1 including a lack of information on children's
2 experiences of systems in Scotland when abuse occurs and
3 how agencies and individuals have responded at local
4 level. You say:

5 "These gaps risk hampering practice and policy
6 efforts to address maltreatment in the current foster
7 care system ..."

8 Why did you highlight that in particular?

9 DR GRANT: It goes back to the point about where there's not
10 been a specific focus on foster care, so, for example,
11 while there's a lot to be learned from reviews and
12 reports that have looked across children in residential
13 care but have included foster care, we can't always
14 assume that these things can be translated across to
15 thinking about children in foster care.

16 So because we don't have a kind of strong research
17 evidence base in relation to maltreatment in foster
18 care, it was just highlighting that that translates into
19 a lack of evidence to inform thinking and planning and
20 decision making in relation to these areas.

21 LADY SMITH: And one has to be aware of the risk of falling
22 into an unjustified belief that the cases that were
23 successfully prosecuted represent the totality of the
24 cases of abuse in foster care.

25 DR GRANT: Yes, absolutely.

1 LADY SMITH: It's an assumption that can easily be made and
2 it's an assumption that's quite wrong.

3 DR GRANT: (Witness nodded)

4 MS INNES: Thank you very much, Dr Grant, for taking us
5 through part 1.

6 I think we might perhaps have a break in a moment,
7 but, Professor, do you have anything to add or to add
8 your own reflections on what emerged from Dr Grant's
9 analysis in part 1 of the report?

10 PROF BIEHAL: I think that was just a very comprehensive
11 analysis that she did and gives a good overview.

12 MS INNES: Thank you.

13 I wonder if that might be a good time to have
14 a break, because I'm going to move on to part 2,
15 my Lady.

16 LADY SMITH: Let's do that. I'll take the break now and
17 when we come back we go to part 2 of the report.

18 Professor Biehal's handling that, am I right?

19 MS INNES: Yes, that's correct.

20 LADY SMITH: Thank you.

21 (11.25 am)

22 (A short break)

23 (11.57 am)

24 LADY SMITH: Can I start by apologising for the delay. As
25 you may have picked up, we're having difficulty with the

1 live transcript at the moment. We've managed to improve
2 matters a little. It won't affect you at all, but that
3 was the cause of the delay.

4 We are now ready to resume and I think we're going
5 on to Professor Biehal's section of the report now; is
6 that right?

7 MS INNES: Yes we are, my Lady, if we can go back to
8 LIT-000000271, the report, and page 32.

9 We see there, Professor, that you begin with
10 a section:

11 "The extent of the problem: UK evidence."

12 And you say that you first of all look at the UK
13 research on abuse in foster care, first in the UK as
14 a whole and then, secondly, specifically on Scotland.
15 You go on to say:

16 "Few UK studies have directly addressed this topic."

17 Was that what you found in your researches?

18 PROF BIEHAL: Yes, particularly in UK generally, not
19 particularly in Scotland, but the focus -- this kind of
20 all came to light in the UK around -- probably
21 1980s/1990s, where fostering charities were supporting
22 foster carers who had allegations of abuse made against
23 them and was understandably supporting them and looking
24 into it, but they were writing lots of little short
25 articles in their membership journal, which were

1 construing the problem of abuse in foster care very much
2 as a really difficult problem for foster carers to deal
3 with, which of course it is, particularly those who
4 perhaps shouldn't be fostering, but there was no mention
5 of the children in there.

6 So in a descriptive study saying how many
7 self-reports from foster carers -- through self-reports
8 of foster carers filling in questionnaires on the
9 journal of the -- you know, what was the National Foster
10 Care Association back then, back in the day, about how
11 awful it is having these accusations. There was a kind
12 of -- the kind of whole tone of these short articles
13 were, "This is absolutely terrible for foster carers",
14 understandably perhaps, but, yes, there was silence
15 about the children. They didn't seem to come into the
16 frame at all, which was quite worrying, really.

17 Q. Yes, and I think you highlight that at the bottom of
18 page 32 and going on to page 33.

19 On page 33, in the second paragraph that we see
20 there:

21 "It was only in the 1990s that UK academics and the
22 NFCA, later the Fostering Network, began to investigate
23 the extent of the problem of abuse in foster care ..."

24 You say that they conducted several surveys of
25 foster carers to investigate the percentage of foster

1 carers who experienced allegations of abuse.

2 Again, were these studies from the perspective of
3 the foster carer?

4 PROF BIEHAL: Mm-hmm. Yes.

5 Q. You say that caution -- they were answering questions in
6 relation to whether they'd experienced allegations or
7 not, and you sound a note of caution in terms of
8 comparing rates of allegations. You talk there about
9 studies of prevalence of allegations and studies of
10 incidence. Can you just explain the difference between
11 those, please?

12 PROF BIEHAL: So the prevalence, if we take allegations as
13 the example topic, so prevalence of something is, say in
14 relation to abuse in foster care, how many foster carers
15 had experienced at least one allegation during their
16 careers as foster carers? Whereas the incidence would
17 be how many foster carers have experienced allegations
18 in a defined period? In this case -- in most cases it
19 would be within one year, not always, but usually within
20 one year, because -- and so it's very difficult --
21 unless people understand that, and if these things are
22 lumped together that, you know, foster carers are
23 interviewed -- not interviewed, who complete
24 questionnaires say, "Well, I've had ten allegations
25 against me during my fostering career", it's very

1 different from saying, "I've had one allegation in the
2 last year". It's a question of how you compare like
3 with like when looking at the research.

4 Q. Okay. Is there any difference in what can be taken from
5 a study then, if it's prevalence as opposed to
6 incidence?

7 PROF BIEHAL: It's not that either is better than the other,
8 but you can't put them all together and get an average,
9 because you're measuring different things at different
10 times.

11 Q. You then have a heading at the bottom of this page,
12 "Prevalence of allegations in the UK". You again refer
13 to questionnaires that were sent out to foster carers by
14 the Fostering Network.

15 If we go on to page 34 and scroll down a little,
16 a paragraph beginning:

17 "All three of these surveys therefore came to
18 similar conclusions, reporting that just over one-third
19 of foster carers had ever been the subject of
20 an allegation."

21 But then you say:

22 "... the response rates for these studies were
23 either low ... or not reported."

24 What impact does that have on what you can take from
25 that statistic?

1 PROF BIEHAL: If they're not reported, you can't really take
2 anything because you don't know how the study was done
3 and you have to be careful about that for the findings.
4 Or one of them -- what they tended to do was send out
5 questionnaires with the magazine Foster Care, you know,
6 quite a reasonable thing to do, and ask foster carers
7 who had ever had an allegation to let them know about
8 their experiences.

9 In this particular one, only 20 per cent of the
10 questionnaires were returned, and so you had to be very
11 cautious and say -- admittedly the author, Vicky Swain,
12 was very careful to say, "We can't make too much of this
13 because it was only 20 per cent", again it's not so much
14 that you couldn't compare things. It's such a low
15 response rate that you can't be satisfied that they
16 would be reflective of the wider population of foster
17 carers, so you can't set any store by that.

18 Q. Then you move on at the bottom of page 34 and onto the
19 next page to look at studies that have explored foster
20 carers' experience of being the subject of allegations
21 of abuse, starting with a study, I think, in 2004, and
22 then onto page 35, reference to the York Carers study.

23 Why did you look at these sorts of studies?

24 PROF BIEHAL: Basically, when we were doing the searches for
25 the review, it was just anything we could find that was

1 a properly constructed study, and if it wasn't, to say:
2 we can take this from it or we can interpret it in this
3 way, but it's not necessarily relevant for the wider
4 population of foster carers.

5 I wouldn't normally do that, but given there was so
6 little research around, I thought let's take what we can
7 and say what we can legitimately say. But in fact
8 I don't think -- the York Carers study was actually
9 a very, very good study. The other studies about
10 allegations, a lot of them were kind of very brief, very
11 basic, but this was a kind of proper study by, you know,
12 led by a very important professor -- who is a former
13 colleague of mine -- but it was just very good and
14 everything was carefully done in methodology terms.

15 LADY SMITH: I see there was a high response rate to the --
16 was it 950 questionnaires that were sent out?

17 PROF BIEHAL: Yes. It wasn't a study of abuse in care. As
18 far as I could tell from doing this review, it seems
19 that often when studies have been about wider issues in
20 foster care and one or two of the questions is, "Have
21 you been subject to an allegation?" or something like
22 that, the fact that it's a wider study for a wider
23 audience means you end up with a more representative
24 sample along the way.

25 LADY SMITH: Thank you.

1 MS INNES: I think at the bottom much that page, just in the
2 paragraph that we can start seeing there, you draw
3 together some descriptive detail on carers' experiences
4 of allegations and what sort of things did you draw out?

5 PROF BIEHAL: Well, there seemed to be -- going by these
6 articles, there seemed to be problems with how some of
7 this was handled with the foster carers. Very, very
8 upsetting for foster carers who perhaps were being
9 investigated but perhaps -- perhaps they could be
10 exonerated or perhaps they truly felt they hadn't done
11 anything wrong if they had. I mean, can't tell from
12 this, but we just know it was a very upsetting
13 experience for the foster carers and they were
14 worried -- they complained about not having advice and
15 support during the course of the investigations, that
16 somebody made an allegation and suddenly their world
17 falls apart and they don't know what's happening and
18 their social worker's not allowed to talk to them in
19 some cases and there's no one else to offer support.
20 You know, real difficulties for those foster carers as
21 well.

22 LADY SMITH: This, of course, is something that
23 Professor Kendrick identified as a need, foster carers
24 overall to be properly supported. I think you probably
25 remember that from looking at his review.

1 PROF BIEHAL: Yes.

2 MS INNES: If we go on to page 36, you have a heading,
3 "Incidence of allegations in the UK". Then you look at
4 three UK studies which have measured the incidence of
5 allegations through a single year through analysis of
6 agency data from social work records.

7 First of all, the NFCA Agency study, which you say
8 arose from questionnaires being sent to an unspecified
9 number of Social Services departments in England.

10 PROF BIEHAL: Mm-hmm.

11 Q. Then the Fostering Network's allegations against foster
12 carers report in respect of incidence of allegations in
13 a single year. What did you take from these two
14 studies?

15 PROF BIEHAL: I thought these were interesting in that they
16 were looking at the annual incidence of foster carers
17 having allegations made against them. The rate was much
18 lower -- they were both very -- they had very large
19 samples of foster carers, which is always a good thing
20 in a study, but what we found was that at the beginning,
21 the first section about the prevalence, the prevalence
22 of allegations amongst foster carers, it was round about
23 a third across all the prevalence studies in the UK.

24 Whereas the incidence studies, where it was "have you
25 had an allegation made against you, for example, in the

1 last year?" It was roughly 4 per cent per year, so it
2 sounded like a lot because there must have been multiple
3 allegations made for them to have that many. It was
4 one-third of the people who had allegations of abuse
5 made against them over an unspecified period, but only
6 4 per cent if you limited it to one year.

7 It was just these different studies collected their
8 data in different ways and had different uses.

9 Q. Over the page on page 37, about the middle of the page,
10 you refer to the Keeping children safe study in 2014, so
11 this is the study -- I think, that we mentioned earlier
12 when looking at your CV -- that you undertook.

13 PROF BIEHAL: Mm-hmm.

14 Q. Can I ask you a little bit about that study and if we
15 could have a look at some aspects of it, it's at
16 LIT-000000196. If we can go to page 10, please.

17 I think this study was commissioned by the NSPCC; is
18 that correct?

19 PROF BIEHAL: Yes.

20 Q. And you undertook it with a number of other colleagues?

21 PROF BIEHAL: That's right, yes.

22 Q. In the executive summary you set out that the study
23 focused on a minority of children who do not always
24 receive safe care and who, in some instances, experience
25 abuse and neglect at the hands of those responsible for

1 their well-being. You say:

2 "Despite longstanding concerns about historic abuse
3 in children's homes and about the implications of
4 allegations for foster carers and their families, very
5 little is known about the extent of these allegations.
6 We know even less about the proportion of allegations
7 that are substantiated, the nature of the abuse and
8 neglect experienced by some children in care settings
9 and the characteristics of the adults and children
10 involved."

11 Then I think you go on to say:

12 "The aim of this study was to investigate these ...
13 questions."

14 How did you go about undertaking this study?

15 PROF BIEHAL: We did a freedom of information request to all
16 Local Authorities in the UK, which actually turned out
17 to be a brilliant idea because they have to write back
18 to you, but the downside is that you can only write
19 asking very brief, very focused questions that a Local
20 Authority person of some -- I'm not sure who these are
21 given to, but they have to fill them in. We received
22 an astonishingly high response rate, because it was
23 74 per cent of all Local Authorities, which we'd never
24 get in a normal research study.

25 As I say, the downside was you can only ask them

1 very limited information, but we focused in on how many
2 children -- can you -- in each of the last three
3 years -- we collected data on three consecutive years
4 and then we took the mean from that when we reported it,
5 which also showed the data for each year in the report.

6 I'm trying to remember what we would have asked. It
7 would have been -- yes, how many allegations made of
8 abuse in foster care in this period, how many
9 substantiated cases. Very straightforward, brief
10 questions which were incredibly helpful to get answers
11 to, because it's very hard to do that, to collect that
12 kind of data in a way that isn't kind of biasing your
13 findings, and in this everyone had a chance to look at
14 their recording systems and just give us the numbers and
15 we then did the maths on it and worked it all out.

16 Q. If we scroll to the bottom of that page under, "Study
17 design", we see at the first bullet point the phase one
18 that you just mentioned. Then phase two, you say that
19 you did a follow-up survey of 111 substantiated cases of
20 abuse or neglect, 87 of which were in foster care and 24
21 in residential care. The purpose was:

22 "... to identify the nature of the abusive or
23 neglectful behaviours in these confirmed cases, the
24 characteristics of the adults and children involved and
25 the consequences for all concerned."

1 You below that say the sample was quite small,
2 particularly in relation to residential care.

3 What did the follow-up survey involve?

4 PROF BIEHAL: That was identifying social workers in Local
5 Authorities and asking -- we identified the children
6 of -- you know, the ID numbers -- obviously we didn't
7 know who the children were, but the ID numbers, and
8 invited social workers to complete a questionnaire for
9 the purpose of research. It's not a big sample, but
10 it's more qualitative data and we learnt quite a lot
11 from it, but we couldn't say that this shows
12 a particular pattern or trend.

13 It could show us that within this -- I think it was
14 110 or 120 children, I can't remember, obviously it's in
15 the report, but we obtained answers on the types of
16 abuse and the kinds of circumstances in which it
17 occurred and we just looked at the -- our purposes in
18 this report, we just drew on the data on children in
19 foster care, although some of those children in that
20 number were actually in residential care. Some studies
21 we found -- particularly in the United States we found
22 studies which collected reported data on both foster
23 care and residential care in relation to abuse in care,
24 but they set out how many children were involved in the
25 sample, but then mix up the answers and treat them as

1 a single group. So we were keen to -- even though it
2 was a small survey, because we didn't have the resources
3 to do a big one, it was still useful because it told us
4 something about what the children were experiencing.

5 LADY SMITH: I should probably just confirm for the
6 transcript, when you use the expression "residential
7 care", in common with Professor Kendrick you're talking
8 about care other than foster care where children are not
9 living at home?

10 DR GRANT: (Witness nodded)

11 LADY SMITH: Technically, foster care is a type of
12 residential care, but that's not what you mean.

13 PROF BIEHAL: Really?

14 LADY SMITH: Children are residing in the care of people who
15 are not their natural family and it has been arranged
16 through the state. Usually. It's certainly within our
17 terms of reference covered by the expression "in care".

18 PROF BIEHAL: In America it's all called "foster care",
19 whether it's residential care or not, so when you're
20 reading American papers you have to kind of work out
21 what do they mean here and some of them do specify, but
22 "foster care" is their umbrella.

23 LADY SMITH: I think the comment's often been made that the
24 Atlantic divides us by a common language.

25 PROF BIEHAL: Yes.

1 MS INNES: If we can look on, please, Professor, to page 11
2 of the executive summary. Here you highlight I think
3 your findings in relation to the incidence of
4 allegations and confirmed abuse or neglect in foster
5 care. What did you find in relation to the incidence of
6 allegations?

7 PROF BIEHAL: The incidence of allegations -- I'm trying to
8 see it here ... (Pause)

9 Yes, it wasn't as high as people seemed to think
10 with smaller samples, and when there were samples by
11 foster carers who were very much involved, so it's
12 difficult to get that kind of sample, make that sample
13 be representative, because if you're counting the
14 numbers who send you back questionnaires, people who
15 have actually been found to have -- you know, that
16 there's serious concerns about their foster care, may
17 not be answering these questionnaires. They may have
18 been de-registered. On the other hand, out of the
19 people who are left answering a questionnaire from
20 an agency or from researchers like ourselves, you know,
21 those who are actually experiencing the problem of
22 allegations are more likely to go ahead and fill in
23 a questionnaire about it.

24 There were problems with all of these kind of
25 attempts to collect data directly from social workers.

1 What we wanted to do to make it more neutral and more
2 representative is just to ask agencies, Local
3 Authorities: we just want to know how many children did
4 this in a year and nothing more. They could look it up
5 on their records, which of course you can't say that
6 records are necessarily neutral because that would
7 depend on the framework for recording things, but it's
8 a lot clearer, nevertheless. It's not perfect, but it's
9 nevertheless ...

10 So we saw that -- well, with the earlier -- the
11 prevalence studies it was round about a third of foster
12 carers by self-report said they had experience at some
13 time in their foster care career of allegations made
14 against them. Yet with our study, which I think was --
15 I would say that, but it was, I think, a more helpful
16 methodology, a clearer methodology, it said that on
17 average there were -- actually, no, sorry, I've gone
18 down the wrong alley here.

19 What we were doing in this study, whereas in the
20 early studies in the UK the unit of analysis was foster
21 carers. In our study, in this study and everything
22 about it, the unit of analysis was children, foster
23 children in foster care, so of course I can't compare it
24 to the number of allegations by foster carers.

25 Q. If you can scroll back a little bit please to under that

1 heading:

2 "On average, Local Authorities reported 10-11

3 allegations per area in each year of the study ..."

4 PROF BIEHAL: That's right.

5 Q. You say:

6 "This represented fewer than four allegations per

7 100 children in foster care ..."

8 PROF BIEHAL: Something like 4 per cent of children on

9 average, allegations have been made concerning a foster

10 carer.

11 Q. Then you note at the end of that paragraph:

12 "The majority of allegations weren't substantiated."

13 So there was between a fifth and a quarter of the

14 allegations were confirmed.

15 You then extrapolate from that in the next paragraph

16 to say that you estimate there are likely to be 450 to

17 550 confirmed cases of abuse or neglect. When you use

18 the word "substantiated" or "confirmed" cases, what do

19 you mean by that?

20 PROF BIEHAL: We mean cases where the Local Authority had

21 investigated and had concluded that there was or there

22 wasn't any truth in the allegation. So it was the Local

23 Authority's own system.

24 Q. Okay.

25 PROF BIEHAL: Whereas the research results from studies

1 whose focus, whose unit of analysis was foster carers
2 seemed very high, once the unit of analysis was
3 children, and you talk about incidence and collecting
4 the data in a more systematic way, it seemed to be a lot
5 less.

6 But I think, as we caution in the report in more
7 than one place, substantiated allegations for children
8 across the UK on average were 0.8 to 0.88 per cent of
9 children in foster care, which was I think lower than we
10 thought it was going to be, but then realised that
11 that's actually in practice 450 to 550 children a year,
12 which is absolutely shocking if it's that many children
13 who have actually got abuse that has been confirmed,
14 experienced that.

15 Q. I suppose there may be cases in which the allegation
16 hasn't been substantiated or confirmed.

17 PROF BIEHAL: Mm-hmm, and then we really don't know.

18 Q. Yes.

19 If we can look, please, onto page 12, and in
20 a paragraph just above the shaded area you note:

21 "Numbers of allegations and of confirmed cases of
22 abuse or neglect varied between [the parts of the UK]
23 and also within England between Local Authorities.
24 These patterns did not appear to relate to differences
25 in the size of the fostered population in different

1 areas. Our data cannot tell us the extent to which
2 these differences are real or the product of different
3 policies, procedures and recording practices."

4 Could you expand on that a little bit, please?

5 PROF BIEHAL: Yes.

6 First of all, we found huge variation in the number
7 of allegations and the number of confirmed cases of
8 abuse in foster care across the country, right across
9 all four countries of the UK. We thought there's no
10 obvious reason why a child in one Local Authority -- you
11 know, there should be a higher rate in some Local
12 Authorities and a much lower rate of either of those
13 things in another Local Authority. It's unlikely to be
14 anything intrinsic to the children or to the foster
15 carers. It's more likely to be about -- you know, why
16 should there be more foster carers with substantiated
17 ... responsible for confirmed abuse in one Local
18 Authority rather than another? Why should there be
19 higher rates of abuse in foster care in some Local
20 Authorities and not others?

21 And allegations varied, rates of allegations varied
22 enormously between Local Authorities as well.

23 Variation between Local Authorities, variation in
24 the four countries of the UK, although we couldn't say
25 much about Northern Ireland, because I think only one of

1 the five boards sent us anything back.

2 It's much more likely that this is something to do
3 with how we respond to these incidents and these
4 allegations and is it about differences between Local
5 Authorities in patterns of approaching how they gather
6 data -- what is the trigger for saying this is
7 an allegation we take seriously and this is
8 an allegation that we don't want to investigate? It's
9 much more likely to do with local policies, local
10 procedures, local recording practices. Basically so
11 a kind of social construct rather than, you know,
12 they're really bad in that Local Authority.

13 Q. Just bear with me a moment. Just in terms of the Local
14 Authorities, if I can just go to one further point in
15 your report here. On page 17 you have a heading, "Local
16 Authority data management and communication". You say:

17 "Although all English Local Authorities are required
18 to report annually on allegations to Ofsted, these data
19 do not currently provide evidence on the numbers of
20 children involved or on the proportion of allegations
21 that are substantiated. The study identified gaps in
22 the information that is readily available to Local
23 Authorities. In many areas, no or only partial
24 information on allegations was recorded on the central
25 database. Where it was recorded, it was not always held

1 in a format that could be linked to information held on
2 children and caregivers. Good data linkage is needed to
3 support local strategic planning."

4 This seems to be a process that's specific to
5 English Local Authorities that you're referring to here?

6 PROF BIEHAL: Mm.

7 Q. Perhaps again if you can just explain the issue that you
8 found here in relation to the way in which data was held
9 by Local Authorities.

10 PROF BIEHAL: Yeah, I think it is an issue about the need
11 for data linkage across different aspects of the
12 service. We were quite surprised when we -- you know,
13 because of doing the investigation we did, we just
14 discovered this by happenstance that these kinds of
15 information that you would think would be linked to
16 a child's file, that an allegation had been made against
17 their foster care, it was very -- I don't know, I was
18 surprised, but then I don't know anything about IT,
19 so ...

20 Yes, people were missing a trick because they held
21 information and didn't hold it consistently in a way
22 that would help that Local Authority identify patterns.
23 Just as Utting said years before about looking for
24 patterns and good recording and looking for patterns, as
25 an aid to practice.

1 Q. Okay.

2 PROF BIEHAL: There were also problems, solvable problems,
3 I would have thought, between Local Authorities when
4 children were placed out of authority and about
5 information not being passed on back to the host
6 authority.

7 Q. Okay. Was that primarily in England again that --

8 PROF BIEHAL: I think -- sorry, I'm not -- I imagine that
9 this page actually is about England, because we're
10 talking about Ofsted.

11 Q. Okay. If we can leave your report aside now, please,
12 and go back to the report that you did for us, we see
13 reference -- and I think we're at LIT-000000271, page 37
14 at the moment, you refer to this study at various points
15 in your report.

16 PROF BIEHAL: Yes.

17 Q. Presumably you used the information and the material
18 that you had gathered in the 2014 study to assist you in
19 addressing the remit that you'd been given by the
20 Inquiry.

21 PROF BIEHAL: Yes.

22 Q. Thank you.

23 If we could just move on, I think we've covered the
24 issues about substantiated allegations.

25 I'd like to take you to page 39, please, and the

1 heading, "Allegations that are unproven", which is
2 towards the bottom of page 39.

3 You have a heading, "Allegations that are unproven",
4 and from there and onto the next page you discuss
5 a number of studies where you draw out statistics about
6 the percentage of allegations that are said to be
7 unfounded or investigations are inconclusive. Why did
8 you focus on that element of the research?

9 PROF BIEHAL: I think it's just that element of uncertainty
10 about whether children are safe, well and happy in their
11 placements or not is really worrying. So in cases where
12 allegations have been made and investigate the cases
13 that have been investigated to see whether children did
14 need protecting, moving, whatever, in many cases they
15 were unproven. It was, you know, recorded as not known,
16 not considered -- not "not considered", but not founded,
17 not founded, unfounded allegations.

18 It's very, very difficult because of course we could
19 be missing children who are at great risk, but on the
20 other hand there's a different kind of downside as well,
21 because another source of harm to children in foster
22 care would be removing them from placements, perhaps
23 often long-term placements, where they're doing very
24 well and they've built strong relationships and it's
25 really good for them, and yet the allegations may be

1 completely unfounded but they're not -- but they don't
2 know that. We heard anecdotally over the time I was
3 doing the previous study about cases -- this is not in
4 the study so it doesn't really count as research, but of
5 people feeling -- you know, having children removed and
6 maybe they didn't need to be removed. You know, is it
7 a leap in the dark? I don't know the answer to this,
8 but it's a very serious problem.

9 Q. If we go on to page 40, in the second paragraph there
10 you refer to your findings in the 2014 study and you
11 noted that over three-quarters of allegations were
12 recorded as unsubstantiated. You say that there was
13 some element of breakdown in terms of what is meant by
14 unsubstantiated, so some were unfounded and some were --
15 but the majority were recorded as unsubstantiated due to
16 a lack of evidence --

17 PROF BIEHAL: Mm-hmm.

18 Q. -- which are two different things.

19 PROF BIEHAL: Yes.

20 Q. You say:

21 "The high proportion of cases with insufficient
22 evidence to confirm or deny allegations represents
23 a grey area for professional decision-making."

24 PROF BIEHAL: Mm-hmm, very.

25 Q. What do you mean by that?

1 PROF BIEHAL: In that professionals are having to
2 investigate and make decisions about what's the safest
3 response, what's the safest plan for this child? Do we
4 hope for the best because we think it could be
5 a one-off, not very serious issue? Or do we whisk them
6 away at this point, because it might be a serious issue
7 and we just haven't found out about it?

8 The point is that both of those avenues hold real
9 risks to the child.

10 One, you know, being removed from a placement when
11 it's not warranted, in which they've built
12 relationships, feel supported and so on.

13 The other is leaving them in an extremely risky
14 situation. It's something very difficult that we need
15 to think more about in future studies and policy.

16 Q. If we go down to the bottom of that page, we see
17 a heading, "Allegations and confirmed abuse in
18 Scotland". You say first of all:

19 "No research studies have focused specifically on
20 abuse in foster care in Scotland."

21 Then you say that you'd identified three reports by
22 the Fostering Network and two Scottish research studies
23 on wider issues in foster care that address this issue.

24 If we go over the page, you refer first of all on
25 page 41 to the Caring for our Children report, and

1 I think you say there that in terms of foster carers
2 reporting that they'd experienced an allegation, the
3 level was similar to prevalence in other UK studies.
4 PROF BIEHAL: That's right, round about just over one-third
5 were found in the prevalence studies.
6 Q. In terms of the incidence at the end of that paragraph,
7 you note:
8 "In respect of the period covered by the study there
9 was an annual incidence rate of just under
10 3 per cent ... slightly lower than the ...
11 4 per cent ... in the UK wide ... study ..."
12 PROF BIEHAL: Where is that? Oh there, I see it, yes,
13 that's right.
14 It's very difficult to compare all of these things
15 because some studies are looking at -- the denominator
16 is this percentage of foster carers or this percentage
17 of children or this percentage of fostering households,
18 so it's very hard to put these figures together to make
19 even a simple average about the risk of allegations.
20 Q. Then you refer to the Fostering Network's more recent
21 The State of Scotland's Foster Care report, where again
22 there was a report into prevalence of allegations,
23 28 per cent as compared to 35 per cent in other UK
24 studies of prevalence.
25 PROF BIEHAL: Mm.

1 Q. Again you're comparing, I think, the Fostering Network's
2 study of prevalence in Scotland as opposed to prevalence
3 in the UK? Is that what you're doing there?

4 PROF BIEHAL: Yes, that's right, the prevalence, yes.

5 Q. Then you refer to two studies carried out by
6 Triseliotis, Borland and Hill in relation to foster
7 carers who cease to foster and a further study on foster
8 care in Scotland in the late 1990s. What did you draw
9 from these studies?

10 PROF BIEHAL: Well, the Delivering Foster Care study
11 I thought was interesting.

12 If you could just scroll down a little --

13 Q. Or perhaps onto the next page, where you deal with the
14 Delivering Foster Care study. 42, I think on the bottom
15 half of that page. Just back a bit slightly, sorry.

16 Yes.

17 PROF BIEHAL: That was a study of I think several thousand
18 children in foster care in Scotland at the time by
19 John Triseliotis and his team, and that provided some
20 useful information about how things were operating in
21 Scotland, but also about the ways in which the idea of
22 abuse in foster care or allegations was constructed by
23 some people.

24 That was interesting too, because it -- sorry.

25 Q. Sorry, by how allegations were constructed, what do you

1 mean?

2 PROF BIEHAL: Sorry, by how they were described and thought
3 about.

4 The example would be -- the study gave very helpful
5 information about the range of points in which decisions
6 about allegations are made. They said that -- they were
7 making decisions between whether confirming that as far
8 as they could tell, you know, the child had experienced
9 the alleged abuse on the one hand and on the other hand,
10 but was this abuse or was it poor standards of care?
11 These terms in some places seemed to be used
12 interchangeably and there was certainly -- here there
13 were some interesting language here being reported,
14 saying depending on the nature of the allegation,
15 a choice would be made between instigating child
16 protection procedures for allegations of physical or
17 sexual abuse or an internal inquiry into allegations
18 of -- this is how they were talking about the behaviour
19 of foster carers as "incompetence" or, I think this was
20 an interesting one, "heavy-handedness". Does that mean
21 smacking somebody hard? That's what it means to me.

22 But the very vagueness of those terms, how do you
23 investigate and address it if there are very loaded and
24 quite vague terms being used?

25 It also was interesting because it showed a pathway,

1 this study, between if allegations were proved they
2 would lead to de-registration, so that much was clear,
3 but again it's this issue of unclear, unfounded, what do
4 we do? Well, perhaps it's just heavy-handed. They were
5 just explaining those processes. They didn't give
6 evidence on how many would fit into each of those
7 categories, because this was just a small part of a much
8 bigger study.

9 Q. I suppose depending on how an allegation is
10 characterised at the outset might then impact on the
11 route that is taken to respond to that allegation.

12 PROF BIEHAL: I don't know if it's only at the outset. It
13 might be along the way, the path of investigation too.
14 There's so much we don't know about what triggers
15 an investigation and the different responses.

16 Just going back -- we might talk more about that
17 later -- about the idea of this being more kind of
18 a social issue, in that Local Authorities will define
19 this sort of behaviour as this, deserving that response,
20 but are those to do with local procedures, policies,
21 practices, histories? Quite possibly to do with that.

22 Q. You go on below this, if we can just scroll down, yes,
23 you talk again about the Keeping Children Safe study and
24 you say that that included a comparison of rates of
25 allegations and substantiated abuse:

1 "In each of these years, the mean numbers of total
2 allegations and confirmed cases -- for those Local
3 Authorities which reported at least one allegation --
4 were consistently lower in Scotland than in England and
5 Wales."

6 You note that the differences were statistically
7 significant and you refer to the statistics in relation
8 to that.

9 Were you able to arrive at any conclusion as to why
10 the rates were lower in Scotland?

11 PROF BIEHAL: No, we couldn't at all. We didn't have any
12 data that was relevant and we didn't have the resource
13 to go out and start interviewing lots of staff and
14 looking into it further as researchers.

15 Q. You say in the next paragraph that the difference is
16 difficult to explain and you say:

17 "Although it is possible that these figures indicate
18 real differences between countries in levels of abusive
19 behaviour by foster carers ..."

20 Because that might be one possibility, that there is
21 in fact less abuse of children in foster care in
22 Scotland than in the rest of the UK. You then say:

23 " ... they are perhaps more likely to reflect
24 different thresholds for recording behaviours or
25 defining them as abusive or neglectful rather than as

1 poor standards of care."

2 Does that reflect back on the evidence that you've
3 been giving about different local policies and
4 procedures and different --

5 PROF BIEHAL: Not so much that, because we weren't
6 interviewing Local Authorities, so that information from
7 the Scottish study by John Triseliotis back in 2000,
8 I was just drawing it from what he said there, but I do
9 think more generally that these differences, as I've
10 said now, relate in patterns between, say, Scotland and
11 other countries of the UK are more likely, I surmise, to
12 reflect these different thresholds for recording
13 behaviours or defining behaviours as abusive.

14 I guess it's a bit as if we looked at this back in
15 time and we would think at a certain point it became
16 unacceptable to smack children, it would be like looking
17 across the country and saying in this context it's still
18 acceptable to smack children, but in that one it isn't.
19 It's a kind of social issue rather than the fact that
20 people are more likely to harm children in one Local
21 Authority or one country of the UK than in another.

22 Q. Okay. Right, I'd like to move on from that to I think
23 take you, if I may, straight to your summary in relation
24 to international research.

25 You have a section in your report where you look at

1 international research and if we can move on to page 54,
2 please, where you summarise what you took from the
3 various reports.

4 First of all, why did you look at international
5 research?

6 PROF BIEHAL: Because there's so little research in the UK,
7 and while it's interesting to have UK-based research so
8 it's in our own system that we're examining, there's
9 just so little research here, so we looked
10 internationally at anything published in the English
11 language. Most of it, nearly all of that research came
12 from the United States. I think there were 11 studies
13 in the United States, I think it was from memory.

14 Q. You mentioned earlier that there are perhaps -- well,
15 there's different systems and even the term "foster
16 care" could be used in a different sense.

17 PROF BIEHAL: Yes.

18 Q. Were there any challenges in finding studies that were
19 comparative?

20 PROF BIEHAL: I think -- yes, it was difficult, but also it
21 was difficult to compare them. So we had to examine
22 each study and put caveats around it: well, actually
23 they do this in a different way.

24 There must also be, though, a lot of things that we
25 would have missed that would be different between our

1 systems, but -- yeah.

2 Q. Okay. You note in the next bullet point:

3 "The principal focus of most of the international
4 studies ... has been on establishing the extent of the
5 problem of abuse in foster care and investigating
6 patterns of maltreatment."

7 I think particularly the American studies you
8 mention of abuse have investigated the incidence of
9 allegations of abuse during specific time periods,
10 ranging from one to six years.

11 PROF BIEHAL: Mm.

12 Q. Was there a significant difference in approach or
13 methodology?

14 PROF BIEHAL: Much more quantitative research. It was very
15 statistically based in a way that most of the UK
16 research isn't really. It is increasingly so over the
17 last, what, 10/15 years, but for a much longer time,
18 American social studies have been very quantitative.
19 But once we sort of worked out what they were measuring
20 and what they -- you know, it's possible to compare,
21 with some caveats.

22 But most of the studies, of course, were American,
23 so we were comparing between American studies as well as
24 America to UK.

25 Q. They're from different states, I think, in the US?

1 PROF BIEHAL: Yes.

2 Q. Did that have an impact? Are there different regimes in
3 different states?

4 PROF BIEHAL: I don't know. Certainly different states had
5 slightly different policies. We weren't reporting on
6 policy in different states, but, you know, I'd flick
7 through and it was interesting. So some of the American
8 studies were either state-wide studies, but more
9 commonly county-level studies, so.

10 Q. The next bullet point talks about reported rates of
11 substantiated abuse and you note a range there in the
12 various studies from 0.27 per cent in the California
13 study to 2.3 per cent in Illinois. Were you able to
14 draw anything from the variation in reported rates or
15 not?

16 PROF BIEHAL: We couldn't explain it, but I think it was
17 interesting that there were higher rates in a number of
18 these American studies. Whereas the rate for England,
19 say, which was one of the lower ones for the UK, was
20 0.83 to 0.88 percentage of children, it's higher here
21 with rates of 1.3 per cent, 1.7 per cent, 2.3 per cent
22 in different states in the United States.

23 So the same sort of thing that we found in the UK,
24 that things varied by agency or group of agencies.

25 Q. Okay. You note:

1 "A few studies have expressed concerns about
2 patterns of decision-making, including the accuracy of
3 the substantiation process, and some have argued that
4 social workers may sometimes be reluctant to
5 substantiate allegations of maltreatment."

6 Can you explain that a little bit?

7 PROF BIEHAL: Yes. There was concern particularly in the
8 American studies about how accurate the substantiation
9 process was. As far as I remember, it was at least two
10 studies the researchers said, "We're not going to say
11 what the substantiation ...". What was it:

12 "We've found out the substantiation rate but we're
13 not going to report it because we don't trust it and we
14 don't think it's valid information."

15 Q. Okay.

16 PROF BIEHAL: But you could actually just work it out if you
17 looked at their numbers.

18 Q. Was that because of subjectivity in judgement --

19 PROF BIEHAL: Yes.

20 Q. -- or concerns about subjectivity?

21 PROF BIEHAL: Yes, and they expressed concerns about how
22 decisions were made and how valid were those decisions
23 and, you know, were Local Authorities just going -- what
24 the equivalent of Local Authorities is over there, just
25 going in and trampling all over things and not doing it

1 right and would this just encourage them if researchers
2 started publishing these rates? So they didn't want to.

3 But others did.

4 Q. Okay. Then you also looked at a study from -- sorry,
5 the next bullet point is to do with the types of abuse,
6 and you noted that allegations of physical abuse were
7 more commonly reported than sexual abuse. However, the
8 studies suggested that physical abuse is less likely to
9 be substantiated than sexual abuse.

10 PROF BIEHAL: Mm.

11 Q. Do you have any comment on that? Did that surprise you
12 or not really?

13 PROF BIEHAL: Yes, it was very interesting that it was the
14 same across several American studies, so there's
15 possibly something in it that we could be following up
16 over here, but, yes. But these studies didn't give
17 a lot of information about -- like us in relation to the
18 UK, they didn't actually have any explanations for why
19 that should be.

20 Q. Because it's just focused on the statistics, as it were,
21 as opposed to --

22 PROF BIEHAL: Yes. We can surmise, we can come up with
23 ideas about why that might be, but it needs thinking
24 about more, yeah.

25 Q. Then you refer to an Australian study of children, of

1 mental health of foster children, which reported that
2 almost one in five had experienced substantiated abuse
3 in foster care.

4 PROF BIEHAL: Much higher than we found here.

5 Q. Were you able to ascertain any reason for that or again
6 was it just -- just -- a statistic?

7 PROF BIEHAL: It was a study done by somebody really good
8 and really careful, so I take it seriously, but I don't
9 understand why it's so different.

10 One in five is way higher than less than 1 per cent,
11 so there must be something about, I think, the way the
12 study was done. Because the American studies were 1
13 point something per cent, they weren't 20 per cent.

14 LADY SMITH: Who carried out the Australian study?

15 PROF BIEHAL: It was a psychiatrist, I think he was
16 a psychiatrist, I can't remember if he's a psychiatrist
17 or a psychologist, but very established researcher,
18 whose focus of concern is on children looked after away
19 from home and has been for many years.

20 I would think there would be a design reason, which
21 I didn't get to the bottom of, about why it should be so
22 different from others.

23 MS INNES: I think it was Michael Tarren-Sweeney.

24 PROF BIEHAL: Yes.

25 Q. We'll come back to another report that he did about

1 something else, but I think we have a note of --

2 PROF BIEHAL: Just thinking again about

3 Michael Tarren-Sweeney's study, this one in Australia.

4 It could have been because of something he says later

5 on, it could well have been about the threshold at which

6 you determine that a child is being abused or not and

7 how bad does it have to be before you remove a child?

8 Are the norms different in services there? Or certainly

9 in New South Wales where he did the study, and it was

10 all children in foster care, the cohort of children in

11 foster care in New South Wales, an epidemiological study

12 of them. It could have been something to do with the

13 way things are classified and investigated there.

14 That's the only thing I can think of.

15 LADY SMITH: Of course, when you're talking about thresholds

16 for removal, you're talking about a risk assessment

17 exercise.

18 PROF BIEHAL: Mm.

19 LADY SMITH: The risk that the -- if there has been

20 substantiation, it's not right, and then the risks of

21 reacting to the substantiation in different ways,

22 potentially, as you've already pointed out, causing more

23 harm to the child that could be disproportionate to

24 leaving the child in place but at the same time you have

25 to assess the risk of not removing the child.

1 PROF BIEHAL: Yes.

2 LADY SMITH: It's all to do with risk.

3 PROF BIEHAL: Extremely difficult.

4 LADY SMITH: Yes.

5 MS INNES: If we can just go over the page to page 55, you

6 highlight by reference to a study in the Netherlands,

7 one of the US studies and your own Keeping Safe study

8 that all of these compared the incidence of abuse in

9 foster and residential care, reporting that the rates of

10 abuse were consistently higher in residential care than

11 in foster care.

12 What can you draw from that?

13 PROF BIEHAL: I think it's not surprising, because

14 certainly -- I don't know in terms of the Netherlands

15 and Indiana, but certainly in this country, the way in

16 which in the UK we typically use -- these days, not in

17 the past, but these days we use residential care for

18 older children and adolescents, many of them are

19 adolescents, who need support. So there's more

20 possibility that other adolescents, you know, in the

21 placements may harm each other as well as, you know,

22 obviously we're concerned about staff and adults in the

23 placement, but that's a possibility.

24 We know from the later chapter about perpetrators

25 and children and children who experienced abuse in

1 foster care, that one risk to children in foster care is
2 risk from older children and adults, it's not only risk
3 from their carers.

4 So in residential care there's another source of
5 harm there, possibly, but on the other hand children in
6 foster care may also be at risk of harm but they can't
7 talk about it. Younger children may not be able to
8 communicate those things. They may not have capacity if
9 they're very young, whereas adolescents, if they choose
10 to or feel they can disclose, you know, they're likely
11 to be in residential care, most of them.

12 Q. Okay.

13 If I can move briefly to the next page, page 56, you
14 have a heading, "Abuse in kinship, private and informal
15 foster care". You highlight in the first paragraphs
16 that there may be some issues with defining what's
17 kinship care, what is formal or informal or private
18 fostering and the terms are sometimes used
19 interchangeably.

20 If we just go down a little, you have a heading,
21 "Abuse and neglect in kinship care: evidence from the
22 UK". Were you able to find any information in relation
23 to that area?

24 PROF BIEHAL: I think the evidence on that is quite thin,
25 because there's been so little research on it in the UK.

1 There's been lots of research on kinship care, but not
2 on whether children experience abuse in kinship care.
3 So it's part of that wider problem that we have in the
4 UK of a lack of research on this particular topic. So
5 we're finding out things that are kind of side issues
6 mentioned in research conducted in the UK, but don't
7 specifically focus on this particular problem that we're
8 interested in.

9 Q. Then below that you have a heading, "Comparing patterns
10 of abuse in kinship and non-kinship foster care", and
11 I think you looked at some American studies. Again just
12 in summary, were you able to draw any conclusions from
13 looking at these studies?

14 PROF BIEHAL: Well, the small number of American studies all
15 found that children were at lower risk of abuse in
16 kinship foster care.

17 Q. Was there any explanation in the studies as to why that
18 was or --

19 PROF BIEHAL: No.

20 Q. -- was it again a statistical analysis?

21 PROF BIEHAL: It was not really explained why. I think the
22 interesting thing, if we're going to change anything, is
23 to understand why it's happening, but it's not there.

24 Q. Then I think you have a section dealing particularly
25 with a particular area of unaccompanied asylum-seeking

1 children.

2 I think, Dr Grant, you said earlier that this was

3 an area of particular interest to you?

4 DR GRANT: (Witness nodded)

5 Q. Are there particular risks in relation to such children

6 coming into care and care systems in the UK?

7 PROF BIEHAL: Do you mean unaccompanied asylum-seeking

8 children going into foster care?

9 Q. Yes.

10 PROF BIEHAL: I don't know. I'm not sure that the evidence

11 is really clear on whether they're at any higher risk or

12 not. I don't think anyone has looked whether they're at

13 higher risk than others. They're at higher risk because

14 they're unaccompanied asylum-seeking children, but

15 whether they're at higher risk within the foster

16 placements, I'm not aware of evidence on that.

17 Q. Is the risk then in relation to the informality of any

18 arrangements that are put in place as opposed to formal

19 foster care?

20 PROF BIEHAL: Yes, some of the research that I mentioned on

21 trafficking and unaccompanied asylum-seeking children,

22 there is a worry about children being brought into the

23 country by someone who purports to be their uncle or

24 their aunt and they're actually trafficked in and used

25 for all sorts of purposes and they're harming them, yes.

1 DR GRANT: I think you're right though to say that the
2 research evidence -- there's been quite a number of
3 studies carried out in relation to unaccompanied
4 asylum-seeking and trafficked children, particularly
5 over the last ten years, but I'm struggling to think of
6 anything that would look specifically at abuse within
7 care placements.

8 Certainly, as Nina has mentioned, there may be
9 ongoing risk associated with traffickers, but I can't
10 think of any research evidence that would address that
11 question that you've raised.

12 Q. Thank you.

13 LADY SMITH: What have these studies that are in relation to
14 unaccompanied asylum-seeker children been focusing on?
15 What have they focused on?

16 DR GRANT: There's been quite a range, but I suppose some of
17 it's been about looking at policies that have been put
18 in place in relation to that, because these are children
19 who are looked after but they're also subject to other
20 processes such as the asylum process, the NRM -- the
21 National Referral Mechanism -- in relation to
22 allegations of trafficking. So there's a kind of --
23 while they have ... while many of their experiences
24 would be sort of similar to or have something in common
25 with other children who are looked after by the state,

1 there are also particular aspects of their experiences
2 that are likely to be different and they have very
3 different histories from children who have grown up in
4 the UK.

5 LADY SMITH: Might the experiences the studies are looking
6 at include, for example, a period or periods in
7 hostel-type accommodation in addition to a period in
8 foster care type accommodation?

9 DR GRANT: There's a really wide range of accommodation that
10 children will have experienced in Scotland and across
11 the UK. I know certainly some of the very recent not
12 just research but I suppose some of the other recent
13 reporting has been about children being in hostel or
14 hotel accommodation. So yeah, there's a very wide range
15 of different types of accommodation for that group of
16 children.

17 LADY SMITH: What we need for the future is a focus on any
18 fostering experience they have, and that's not there
19 yet?

20 DR GRANT: There is one study that's looked at fostering of
21 unaccompanied asylum-seeking children, that was led by
22 Jim Wade, and that was published I think in about 2014.
23 I mean it's a really good study, but of course any one
24 study is usually only looking at -- you know, there's
25 only so much you can cover in one research study --

1 LADY SMITH: Of course.

2 DR GRANT: -- and as far as I'm aware, all of the data for
3 that was in relation to England, not in relation to
4 Scotland.

5 LADY SMITH: Thank you.

6 MS INNES: My Lady, I wonder if that might be an appropriate
7 point to break?

8 LADY SMITH: We could break there.

9 Would it be helpful if I sat again at 1.50?

10 MS INNES: It would be helpful.

11 LADY SMITH: We'll rise now until 1.50.

12 (1.03 pm)

13 (The luncheon adjournment)

14 (1.50 pm)

15 LADY SMITH: Good afternoon. We were about to move to
16 another part of Professor Biehal and Dr Grant's report,
17 I think. Is that right?

18 MS INNES: Yes, thank you, my Lady. We're at LIT-000000271
19 and if move to page 65, where we have a heading, "Nature
20 and severity of the maltreatment".

21 I think at this part of your report you start going
22 through the various bullet points that we saw right at
23 the beginning of your evidence today, the bullet points
24 that were part of your remit.

25 PROF BIEHAL: Yes.

1 Q. I think you draw together some of the material under
2 these various headings.

3 First of all, in relation to nature and severity of
4 maltreatment, you note again:

5 "Most studies of abuse in care have provided
6 insights into the nature of abuse in residential
7 institutions, but there has been little research on the
8 nature and severity of maltreatment experienced by
9 children in foster care."

10 What were you able to ascertain from the material
11 that there was in relation to the types of abuse which
12 children in foster care have experienced?

13 PROF BIEHAL: We've found that from the material we could
14 draw on, we found the most common types were physical
15 and sexual abuse that were reported, with physical abuse
16 being the most common. Sexual abuse quite common, but
17 varying between places. I think as you mentioned
18 earlier as well, that allegations were more likely to be
19 allegations of physical abuse were more common and
20 sexual abuse allegations were less common, but once
21 sexual abuse was alleged, it was then obviously
22 investigated and children with allegations of sexual
23 abuse were more likely to have that abuse confirmed.

24 But not many studies really talk, in any detail,
25 about what kind of sexual abuse, in what circumstances,

1 and provide a fuller picture. It's rather sketchy.

2 Q. At the bottom of this page, page 65, you have a heading,
3 "Children's reports of maltreatment". You say:

4 "Although few studies have collected data on abuse
5 in foster care directly from fostered or formerly
6 fostered children, those that have done so have reported
7 evidence of emotional abuse in foster care as well as
8 physical and sexual abuse."

9 If we go on over the page, I think you refer to
10 a couple of studies in which these sorts of issues came
11 to the fore. What sort of emotional abuse did children
12 in foster care speak of in the studies?

13 PROF BIEHAL: These weren't proper studies, but we
14 incorporated them because they had valuable information
15 and there wasn't much else, but theses were very
16 interesting analyses of calls to Childline and calls to
17 the Who Cares? Trust -- no, not calls to them, Who
18 Cares? Trust magazine had a magazine for children and
19 they had a little survey in that. That, I think, is
20 pretty much the only two studies where we hear the
21 voices of children, and it's very schematic as well.

22 As far as I could tell from -- you know, what
23 I could read in these two studies, it seemed like a lot
24 of it was about emotional maltreatment in foster care
25 and feeling spurned by the foster carers a little bit or

1 not treated as a member of the family and it was those
2 kinds of things that they were unhappy about and they
3 were calling Childline about and reporting to the Who
4 Cares? Trust.

5 Q. I see that in the Who Cares? Trust there was complaints
6 of being treated differently from foster carers' own
7 children --

8 PROF BIEHAL: Yes.

9 Q. -- and of being scapegoated when things went wrong.

10 PROF BIEHAL: That's right, yes.

11 Q. If we move on to page 69 of your report, you have
12 a section headed, "Emotional abuse in foster care",
13 where you look specifically at this area. I think you
14 do note that there has been relatively little attention
15 to emotional abuse in foster care?

16 PROF BIEHAL: Mm-hmm.

17 Q. You say:

18 " ... possibly because it is more difficult to
19 define and identify than other forms of
20 maltreatment ..."

21 PROF BIEHAL: Mm, possibly.

22 Q. In this section you look at a couple of international
23 studies that you were able to find. If I can take you
24 on to a particular study by Michael Tarren-Sweeney,
25 which you mentioned, on page 71. You refer here to the

1 Australian study where there was an identification of
2 a strong association between emotional abuse and
3 a specific eating disorder.

4 PROF BIEHAL: Mm.

5 Q. Can you please tell us a bit about that?

6 PROF BIEHAL: Yes, I'd never heard of this before, but
7 there's apparently a specific pattern of aberrant eating
8 called "food maintenance syndrome", which involves
9 acquiring food and making sure you have enough food
10 there and stealing and hiding food yet without obesity,
11 apparently that's the definition.

12 It found that emotional abuse in foster care -- the
13 kind you just described -- was an exceptional risk
14 factor for food maintenance syndrome, and the odds were
15 much higher even for children being abused in their
16 current placement at the time, more than it was for
17 those who had already left, were no longer in their
18 placement.

19 So a kind of exceptional mental health risk and
20 physical risk.

21 Q. You say at the end there that the author:

22 "... hypothesised that the syndrome was primarily
23 triggered by acute stress, as most confirmed cases were
24 living in placements that were abusive when this
25 behaviour was reported."

1 PROF BIEHAL: Yes.

2 Q. Was it something that was new to you? That you'd not
3 seen this elsewhere?

4 PROF BIEHAL: No, not at all. It was an extremely important
5 finding, but I've never come across it anywhere else.
6 Maybe it's something that would be more widely discussed
7 in research on psychology or psychiatry -- or more
8 likely psychology with children. But whether people
9 would pick this up, I don't know. Very interesting.

10 Q. Thank you.

11 If we could move, please, to page 72 of your report,
12 you have a heading there, "Perpetrators and children who
13 have experienced abuse", and you looked at evidence on
14 perpetrators and you note:

15 "It is important to distinguish maltreatment in
16 foster care from maltreatment by foster carers."

17 What did you find from the research about who the
18 perpetrators of abuse were of children in foster care?

19 PROF BIEHAL: Well, the most common were foster carers, but
20 the figures are not particularly clear about that.
21 I think it just varied by different areas. But, yes,
22 the most common with the children were foster carers,
23 but there were also a range of other people who were
24 responsible for the abuse, including adults connected to
25 the placement, older children or siblings of the child

1 or older children in the placement.

2 So there were a number of other -- also, one
3 researcher at least has talked about children being
4 abused while on contact visits, being sexually abused on
5 contact visits, you know, while they're actually in the
6 building.

7 So certainly it's not just -- it seemed to be the
8 most common are foster carers and I think I read
9 something like 60-something per cent were the foster
10 carers, but it was fairly common for the perpetrator to
11 be one of those other groups.

12 Q. Okay. From what you've just said, it would be important
13 when looking at the studies to be clear as to who the
14 perpetrator was if one is, for example, considering
15 abuse in care?

16 PROF BIEHAL: Yes.

17 Q. Then one needs to know who the perpetrator is.

18 PROF BIEHAL: Yes.

19 Q. You look a bit further on page 75 at the characteristic
20 of foster carers responsible for maltreatment.

21 PROF BIEHAL: I thought the most interesting of this was
22 coming back to the Michael Tarren-Sweeney study, I think
23 it was this one and the previous one -- is it possible
24 just to see that bit on here where he talks about the
25 perpetrators being the family. Perhaps it will take too

1 long.

2 DR GRANT: The top of the next page, page 76, is the
3 Australian Children in Foster Care study.

4 PROF BIEHAL: Yes.

5 Q. On page 76 you note:

6 "The study says that most cases of abuse by foster
7 carers concerned inappropriate discipline from carers
8 under stress, coping poorly with children who had
9 challenging behaviour."

10 Is that what you were thinking about?

11 PROF BIEHAL: That's what I was looking for. He was saying
12 basically from his studies the majority of the
13 perpetrators were the foster carers, but most of them it
14 was kind of lower level misbehaviours, so to speak. He
15 felt that most cases of abuse by foster carers that he'd
16 seen concerned inappropriate discipline from carers
17 under stress, coping poorly with children who had
18 challenging behaviours. He felt that was the most
19 common. But, and importantly, he argued that there was
20 a smaller group of foster carers displaying "neglectful
21 or predatory behaviour" who should never have been
22 allowed to foster. He said they had, "Emotional,
23 personality or relationship difficulties that are
24 incompatible with fostering".

25 Q. I suppose one might say those should have been

1 identified at --

2 PROF BIEHAL: They should never have been able to foster or
3 it should have been picked up very quickly if they
4 slipped through the net.

5 I think it's also an important point that he
6 found -- this is two Australian studies, so it may or
7 may not be true here -- that there were lower level
8 concerns with the majority of the foster carers, but
9 some it was extremely serious.

10 Q. Just staying with that theme, if we can just go back to
11 page 75 where, under the heading, "Characteristics of
12 foster carers responsible for maltreatment", you note
13 the isolation of the fostering setting, but you also
14 note that in a number of the studies some foster carers
15 found to be responsible for abuse have had a history of
16 previous allegations. Can you just expand a little on
17 that?

18 PROF BIEHAL: You would hope that that would -- you know,
19 more than one allegation at the very least might raise
20 alarm bells if there were subsequent allegations, but
21 apparently these studies found that there were a number
22 of foster carers with a history of allegations that
23 hadn't been responded to. I think in the Utting review,
24 the 1997, I think he makes a point about that too and
25 the importance of logging incidents and allegations so

1 that you can see if a pattern emerges. I think that was
2 in Utting 1997.

3 Q. You note there in your own study, the 2014 study, that:
4 "... 43 per cent of foster carers who had confirmed
5 to have maltreated a foster child had been the subject
6 of previous allegations concerning either the same child
7 or another. In some of these cases, there had been
8 a string of low-level complaints during the carers'
9 fostering careers."

10 That seems to be something that you found in your
11 own research as well?

12 PROF BIEHAL: Yes. I think that would be the example of
13 children -- it wasn't -- not in the big statistics for
14 that study, it was a smaller sample of 100 and something
15 of children that we found that out.

16 Q. The phase two of your study that we saw when we looked
17 at your report?

18 PROF BIEHAL: Yes.

19 Q. If we can go back to page 76 again, in the final
20 paragraph on that page you note a couple of the American
21 studies in which it was observed:

22 "... that foster carers who experienced allegations
23 had often been fostering for many years, and this may
24 have enhanced professional trust in the care they
25 provided."

1 One study:

2 " ... also reported that the alleged perpetrators of
3 sexual abuse had often been well-liked and respected by
4 their social workers before the abuse came to light."

5 PROF BIEHAL: Yes.

6 Q. Then you also mention the Edinburgh Inquiry there,
7 warning of the dangers of overoptimism. Is that again
8 something that you saw as being a particular
9 characteristic?

10 PROF BIEHAL: I don't think the numbers are big enough to be
11 able to say strongly that that's a characteristic, but
12 the fact that it's repeated in a few studies, I think we
13 should be concerned about it and respond to it.

14 Q. If we look on to page 77, you have a heading:

15 "Child characteristic and types of abuse."

16 I suppose here we're looking at particular
17 vulnerabilities on the part of children. Were you able
18 to find anything from the research in relation to this
19 which was noteworthy?

20 PROF BIEHAL: There was a small number of studies, I think
21 English and American studies found that there was some
22 sort of limited evidence that girls may be more likely
23 to be sexually abused than boys and boys more likely to
24 be physically abused. I think we'd need stronger
25 evidence to know if that stands up, but if several

1 studies have found it, it's worth pursuing.

2 Q. The last sentence on that page says:

3 "Some studies have suggested that children who have
4 been previously abused in their home environment may be
5 particularly vulnerable to further abuse in foster care,
6 as they may be particularly challenging to care for or
7 display highly sexualised behaviour."

8 I think you refer to a number of studies, a study
9 from Benedict in relation to that point.

10 PROF BIEHAL: Then there's one in Leeds as well called
11 Hobbs, Hobbs and Wynne. I think about three or four
12 studies mentioned that.

13 Q. If we go on to page 77, you also note that studies of
14 child maltreatment in the wider community have found
15 that disabled children are at greater risk of all forms
16 of abuse and neglect. Can you expand on that a little
17 bit?

18 PROF BIEHAL: Again, we only have limited evidence on that,
19 but given that that is a more widespread phenomenon that
20 we see in the community, I think obviously we should
21 take it seriously, but I can't remember for this which
22 particular studies this one was.

23 LADY SMITH: Professor Biehal, can I invite you not to turn
24 too far away from the microphone when you're speaking,
25 because then the sound system loses you. It's important

1 we hear everything you have to say.

2 PROF BIEHAL: Sorry, yes.

3 MS INNES: You refer to four studies. The Keeping children

4 safe study noted that a quarter of a sample of 116

5 children who experienced abuse in foster care had

6 a disability of some kind ..."

7 PROF BIEHAL: I'd forgotten that.

8 Q. And the Leeds study, which I think you just mentioned:

9 " ... reported that one-quarter of a subsample of

10 children abused in care had significant learning

11 difficulties or special educational needs."

12 Then you refer to two American studies. Do you

13 simply highlight these as being an area of particular

14 risk --

15 PROF BIEHAL: Yes, I think it would be an area of particular

16 risk, yes, definitely.

17 Q. Then the next paragraph here, on page 78, I think is to

18 do with disclosure and barriers to disclosing or

19 reporting abuse.

20 PROF BIEHAL: Unfortunately only two of the participants in

21 this study that you're referring to actually had been

22 abused in foster care, so I put that in because it's

23 some evidence to go with other evidence that might be

24 useful, but it was only two young people out of a sample

25 of only 21. I think that's a very valid thing to follow

1 up and it's important, but I don't know that we have the
2 evidence specifically for abuse in foster care.

3 Q. There might be evidence about barriers to children
4 reporting abuse more generally, whether in the family
5 home or perhaps in residential care, but not very much
6 material as to whether there's any barriers specific to
7 foster care?

8 PROF BIEHAL: That's right. I wouldn't think so, because
9 we're already aware that with children in the community
10 that having some sort of disability is a risk factor, so
11 I'm not sure this adds a lot to that, but it should be
12 noted, anyway.

13 Q. You note at the bottom of the page there:

14 "The experiences described highlighted the barriers
15 children may experience in disclosing the abuse at the
16 time it occurs, such as the lack of a trusted adult to
17 confide in, fear of further harm and inappropriate
18 reactions from some adults, such as ignoring,
19 disbelieving or even blaming children for the abuse."

20 I think that's all drawn from the Why 'historic'
21 abuse? study, which I think Dr Grant perhaps referred to
22 earlier. That's connected with Samina Karim's PhD
23 study; is that correct?

24 DR GRANT: (Witness nodded)

25 Q. I think that covers the various bullet points that you

1 were asked to address.

2 Then you have a section in your report where you
3 draw together the various threads, most of which I think
4 we've already covered in discussion today.

5 PROF BIEHAL: Yes.

6 Q. I did want to ask you about the section at the end of
7 your report in relation to the gaps in the research
8 starting on page 85, and we've heard some evidence about
9 this.

10 Going on from the bottom of page 85, so we have
11 a heading, "Gaps in the research", and you introduce the
12 subject there. If we go on to page 86, you say:

13 "It would also be helpful to compare patterns of
14 decision-making and outcomes for fostered children who
15 become the subject of allegations of abuse, including
16 decisions to remove children from their placements and
17 the timing of this removal. This would include
18 an exploration of the circumstances in which the alleged
19 behaviours are defined as evidence of poor standards of
20 care or as actual abuse or neglect and the drivers and
21 consequences for intervention of representing cases in
22 each of these ways."

23 Does that go back to some of the material that you
24 picked up, I think, from the Triseliotis study?

25 PROF BIEHAL: From the -- oh, yes, that would be one set of

1 data, yes, but also the wider point that we discussed
2 earlier about why are patterns so different between
3 Local Authorities and between UK countries.

4 Q. I think you go on to expand on that. If we just scroll
5 down further, we see a paragraph beginning:

6 "Children's voices are missing from most of the
7 studies identified by this review."

8 Is that a significant gap?

9 PROF BIEHAL: Absolutely. I think we need research that
10 involves children or young people or young adults. It's
11 tricky because it's this particular issue. I think it
12 would be tricky and we'd have to think very carefully
13 about: are we talking about maybe adolescents who might
14 be willing to talk or are we talking about adults with
15 histories of this? Because we wouldn't want to be doing
16 more harm by doing -- it's quite a tricky one to engage
17 children in research on that, but it could be thought
18 through, maybe.

19 Of course it's important we do have more children's
20 voices in the research, as in everything.

21 As far as I can -- without checking through the
22 report again, I think it was only two studies that did
23 have their voices, and that was the Childline study and
24 the one with the Who Cares? Trust survey. So that's not
25 a lot, but at least they were UK-based, so that's

1 something.

2 Q. You suggest what studies might explore in terms of
3 children's experience, in particular I think of response
4 to allegations and also to barriers or difficulties in
5 reporting abuse. So are those specific gaps in the
6 research?

7 PROF BIEHAL: Yes.

8 DR GRANT: (Witness nodded)

9 Q. Then, finally, you note that there was little evidence
10 on risk and protective factors for abuse in foster care
11 and that no research studies have investigated risk and
12 protective factors, particularly in relation to
13 Scotland. What are we missing by not having that?

14 PROF BIEHAL: By not having the material on Scotland?

15 Q. Mm.

16 PROF BIEHAL: Yes, absolutely. There must be a reason why
17 it's different between the four countries of the UK and
18 we just need to understand -- there's such a difference
19 for Scotland that it makes me feel deeply suspicious
20 that why should it be so different in Scotland or for
21 one country compared to others and it would be helpful
22 to understand why the figures are so different, so we
23 can understand what's going on in the way that
24 allegations are responded to and try to understand this
25 problem.

1 Q. I think I've taken you through your report and obviously
2 we've read and digested the other material that I've not
3 referred to today. Is there anything that's not been
4 covered in your oral evidence which you feel it would be
5 important to emphasise for our purposes?

6 PROF BIEHAL: I think we have covered the most important
7 things, I think we have.

8 Q. Dr Grant, do you have anything to add?

9 DR GRANT: We have covered it, but I suppose just one thing
10 that's really stuck in my mind is that there was
11 a period in the late 1990s where there was a number of
12 reports, you know, there was the emergence of the start
13 of an evidence base. At that time there was a kind of
14 call for more research in this area and we certainly
15 haven't been able to identify a major research study
16 that's been carried out that would address that.

17 I think that's I suppose one of the things we
18 emphasised in the final section of the report, was just
19 what a significant and robust research study could offer
20 that's missing from the evidence base so far.

21 MS INNES: Thank you.

22 I have no more questions for you just now.

23 LADY SMITH: I don't have any further questions either.

24 Thank you both so much for everything you've done to
25 bring together your joint thoughts and your joint work

1 in your written report and coming along to talk about it
2 today. It's made it come alive for me and I've found
3 that really helpful.

4 With my thanks, I'm now able to let you both go.
5 Thank you.

6 (The witnesses withdrew)

7 MS INNES: My Lady, that concludes the evidence for today,
8 I'd only scheduled Professor Biehal and Dr Grant.
9 Tomorrow we have evidence from Lynn Abrams in relation
10 to her report, in particular covering research that
11 she's done in relation to Glasgow and the boarding-out
12 period.

13 LADY SMITH: I'm looking forward to seeing Dr Abrams again
14 tomorrow for her second visit, on a different topic this
15 time. That will be very helpful, I'm sure.

16 I'll rise now for the day and sit again at
17 10 o'clock tomorrow morning.

18 Thank you all.

19 (2.18 pm)

20 (The Inquiry adjourned until 10.00 am on
21 Friday, 6 May 2022)

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I N D E X

Dr Maggie Grant (affirmed)	1
Professor Nina Biehal (affirmed)	1
Questions from Ms Innes	2

