

1

Wednesday, 18 May 2022

2 (10.00 am)

3 LADY SMITH: Good morning and welcome back to our hearings
4 in the foster care case study, where we're still in the
5 part of the case study in which we're listening to
6 evidence from Local Authorities. Today we move across
7 a little bit north of Glasgow to East Dunbartonshire,
8 I think. Is that right, Ms Innes?

9 MS INNES: That's right, my Lady. We have Caroline Sinclair
10 from East Dunbartonshire Council.

11 LADY SMITH: Thank you.

12 Ms Caroline Sinclair (affirmed)

13 LADY SMITH: The first question I have for you is, I hope,
14 an easy one for you to answer. How would you like me to
15 address you? Ms Sinclair or Caroline? Either would
16 work for me.

17 A. Caroline, please, my Lady.

18 LADY SMITH: Well, Caroline, I see you already have the hard
19 copy in front of you. You obviously realise that's what
20 is in the folder there. It has your council's response
21 in it. You'll be referred to that as we go through your
22 evidence, but it will also come up on the screens in
23 front of you, as will any other documents that we need
24 to look at. So I hope that's helpful to you, but you
25 don't have to use them, you can just look at them if it

1 helps.

2 Otherwise, any questions or concerns, you must let
3 me know because I want to do anything I can to make giving
4 evidence as stress free for you as possible. I do know
5 it's not easy, it's a difficult task to address, but
6 we're all in this together and we want to make it work
7 if we can.

8 I take a break around the middle of the morning,
9 about 11.30, so if you're still giving evidence then, if
10 that works for you, we'll have a breather at that stage.

11 Otherwise, unless you have any questions just now,
12 I'll hand over to Ms Innes and she'll take it from
13 there. Is that all right?

14 A. Yes, thank you, my Lady.

15 LADY SMITH: Ms Innes.

16 Questions from Ms Innes

17 MS INNES: Thank you, my Lady.

18 Caroline, we understand that you are currently Chief
19 Social Work Officer at East Dunbartonshire Council?

20 A. That's correct.

21 Q. You were appointed as a Chief Social Work Officer
22 I think in August 2018 at East Dunbartonshire, and
23 initially you were head of mental health, learning
24 disability and addiction services, and then you moved to
25 your current role as chief officer, initially on

1 an interim and then on a permanent basis I think from
2 January 2020?

3 A. Yes, that's correct.

4 Q. You've provided a CV and outline of your career history
5 to the Inquiry, and I think we can see from that that
6 you were initially a criminal justice worker with Sacro
7 for maybe about four years, and then you became a social
8 worker with Orkney Islands Council in August 2003?

9 A. Yes, that's correct.

10 Q. Then you remained with Orkney in a number of roles up
11 until you moved to East Dunbartonshire in August 2018?

12 A. Yes.

13 Q. I think prior to moving, you had been ultimately chief
14 officer and executive director of Orkney Health and Care
15 Partnership?

16 A. Yes, that's right.

17 Q. Thank you.

18 If we can turn to East Dunbartonshire's response to
19 the section 21 notice, and just before we do that,
20 I think you know that the Inquiry sent some follow-up
21 queries in December of last year, which I don't think
22 were fully responded to until Monday of this week.

23 A. (Witness nodded)

24 Q. Are you able to give any explanation or is there
25 anything that you'd like to say about that?

1 A. Yes, thank you. I can only apologise on behalf of
2 East Dunbartonshire Council for overlooking the December
3 additional questions request. It's not clear what
4 happened. However, it is obvious that there was
5 a failure within the internal communications system
6 within the Council and I only became aware of the
7 additional questions that had been asked on 2 May, when
8 a supplementary set were sent to our now legal team
9 leader.

10 So my apologies for that. It was by no means the
11 intent of East Dunbartonshire Council to fail to
12 respond. It was a genuine error and oversight, and
13 because I only had the questions from 2 May, that's why
14 the revised submission has come in so late.

15 And, again, I apologise for the lateness of that and
16 for the additional information.

17 LADY SMITH: Are you satisfied that you've now given us
18 everything that you're able to say in response to the
19 follow-up questions?

20 A. Yes, thank you, my Lady, yes, I am.

21 LADY SMITH: Thank you, Caroline.

22 MS INNES: Thank you, Caroline, and I think you've submitted
23 with your response to the follow-up queries and
24 connected to those queries I think a revised Part B and
25 Part C to the response, which has now formed part of the

1 evidence bundle which we'll refer to today.

2 If we can start first of all at EDC-000000004, which
3 is the Part A, and if we look at the history of the
4 Local Authority, I think we can see in the period 1930
5 to 1975, it appears that there were a number of county
6 and borough councils at that time.

7 LADY SMITH: I think we need to go down a little to get to
8 1930. If we can scroll down a little bit so we can pick
9 up the 1930 entries. The three 1930 to 1975 entries.

10 That's great, thanks.

11 MS INNES: We see Stirling, Lanark and Dumbarton County
12 Council. And then below that various district councils,
13 as well, Kirkintilloch and Cumbernauld, New Kilpatrick,
14 Lanark 9th District, Stirling Western No. 3 District and
15 then a couple of joint committees that you were able to
16 find in the very early part of the period, 1930 to 1948.
17 And then some burgh councils, Kirkintilloch,
18 Bishopbriggs, Milngavie and Bearsden. So a variety of
19 different burgh and county councils for that early
20 period.

21 Did that present any challenges in terms of finding
22 information relevant to that period?

23 A. So the Council's lead archivist and her team undertook
24 work to check everything that they could find that
25 related to the predecessor arrangements. It is, as you

1 note, quite complicated and it had been through a number
2 of different iterations, so everything that could be
3 found was brought forward and taken into account in
4 forming the response.

5 Is it possible that there are some records that were
6 no longer available within those arrangements? It's
7 quite possible that there were, but certainly
8 a considerable amount of work, both -- well, largely on
9 paper but also in terms of what was noted electronically
10 to be held was undertaken by the archivist.

11 Q. Thank you.

12 Then if we scroll up again, I think we know that
13 East Dunbartonshire was part of Strathclyde Regional
14 Council from 1975 to 1996, and it has obviously been in
15 its current form since 1996.

16 A. (Witness nodded)

17 Q. Thank you.

18 I would just like to ask you a couple of questions
19 in relation to matters arising from the Part A and
20 material that you found. If we go, please, to page 6,
21 and if we scroll down to the paragraph beginning:

22 "At their meeting on 24 October 1962, Lanark County
23 Council's Children's Committee considered a report on
24 boarding-out allowances by the association of counties
25 of cities in Scotland, and the ACCS recommended to its

1 constituent cities that they increase the scale of
2 allowances in respect of boarding out."

3 I assume that's something that was found amongst the
4 archives, which I think seems to suggest that there was
5 this organisation who, in the 1960s, seem to have made
6 recommendations to Local Authorities in relation to the
7 amount of allowances.

8 A. Yes. There was evidence found that indicated that these
9 matters were being considered at that period of time and
10 that the views of that over-arching association were
11 being taken into account and accepted in terms of
12 developing the policy and practice as it related to --
13 I think it was boarding out at that time in terms of
14 payments. So, yes, there was evidence of that from
15 within the minutes that could be sourced.

16 Q. Thank you. If we can go on, please, to page 15, and if
17 we scroll to the bottom of the page, please, and we're
18 looking here at numbers of children in foster care, and
19 first of all in the final paragraph on that page there's
20 a note:

21 "In July 1930, Lanark County Council public
22 assistance inspector reported that 50 children were
23 currently boarded out with strangers ..."

24 I think that was the only material you were able to
25 find from that period in respect of Lanark. Am I right

1 in thinking that although these are predecessor
2 authorities, only part of what was Lanark County Council
3 would now fall within the boundaries of
4 East Dunbartonshire?

5 A. Yes, that's correct. The complex background has seen
6 the areas divided up differently at different periods of
7 time. The reference made there to there being one child
8 from Western District 9 Bishopbriggs is the only area
9 that could be found in the minutes that still falls
10 within the catchment area of East Dunbartonshire
11 Council.

12 Q. Thank you.

13 If we go on from there to page 16, and below, if we
14 go to 1948 to 1975, there's reference there to 169
15 children listed as boarded out with private families by
16 Lanark County Council in 1949, so I assume the same
17 would apply here. That would have been for what was
18 then Lanark County Council, only part of which is now
19 East Dunbartonshire?

20 A. Yes, that's correct, and on that occasion there was
21 nothing specific within the minute that would indicate
22 numbers in relation to that which is now within
23 East Dunbartonshire Council's boundaries.

24 Q. Then there's a reference to 135 children being boarded
25 out by Stirling County Council in 1964 and I assume the

1 same might apply to that as well?

2 A. Yes, that's correct.

3 Q. Then if we go below that, 1975 to 1996, there's
4 reference there to 17 children from the Glasgow North
5 area, presumably of Strathclyde, including
6 East Dunbartonshire, who were on a supervision
7 requirement but in foster placements on 31 March 1977.

8 I assume again that the North District of
9 Strathclyde would have been larger than
10 East Dunbartonshire?

11 A. Yes, indeed. The East Dunbartonshire element of that
12 would be a small proportion of the overall population of
13 what was then described as "North".

14 Q. Obviously you weren't able to find any further details
15 about children in your geographical area for that
16 period?

17 A. No, unfortunately there was nothing to give us numbers.

18 Q. Then if we go on to 1996 to 2014, you've noted that you
19 have an electronic register of foster carers in
20 placements from between 2010 to 2014, and you've
21 provided some information in relation to that.

22 In terms of children in placement, essentially
23 around 20 children in placement for these years 2010 to
24 2014?

25 A. Yes, that's correct.

1 Q. We'll come back to children in a moment, but if we can
2 move on over the page, please, to page 17, and if we
3 look at foster care, so under (b). First of all, you
4 weren't able to find any information in relation to
5 foster carer numbers for the period up until 1996?

6 A. (Witness nodded)

7 Q. Then in 1996 to 2014 it's noted there:

8 "In 1997, East Dunbartonshire social work committee
9 heard that, because Glasgow City Council had retained
10 all foster carers residing in the East Dunbartonshire
11 area, following reorganisation, East Dunbartonshire
12 social work department was in the difficult position of
13 having no family placement resources. Officers proposed
14 and described a significant project to develop an East
15 Dunbartonshire service."

16 Can you explain a little bit more about that,
17 please?

18 A. Yes, that's correct. The disaggregation left
19 East Dunbartonshire Council with no registered foster
20 carers of its own, they were retained by Glasgow City
21 Council, and so the main form of childcare provision for
22 children who couldn't remain within the family home in
23 East Dunbartonshire at that time because residential
24 childcare, which is clearly not the preference in terms
25 of supporting children and young people in as homely

1 a setting as they can, so East Dunbartonshire Council
2 began a programme of work to develop its own fostering
3 service, to recruit foster carers within the local area,
4 to put in place all the necessary East
5 Dunbartonshire-specific policies, operational procedures
6 and guidelines to support the working of that service
7 and recruitment to the foster carer role commenced.

8 I'm just referring to some supplementary notes that
9 I brought in. In 1997 they had achieved four foster
10 carers registered and that built up incrementally over
11 time to the position of around 20, which has remained
12 largely static, as you can see from the data provided in
13 the report. So there was and continues to be an ongoing
14 campaign of recruitment of foster carers run annually in
15 order to support children and young people to be cared
16 for in as homely settings as possible.

17 Q. Do you know how it was that Glasgow City were able to
18 retain foster carers that were living in the East
19 Dunbartonshire area?

20 A. So I think because prior to the disaggregation it sat
21 within their remit that they were retained. I couldn't
22 tell you what discussion there was about that at the
23 time, but only the final position, which was that East
24 Dunbartonshire entered the post becoming its own council
25 phase without any foster carers.

1 Q. Then you described that you gradually built up the
2 resource over time and you mentioned there from your
3 notes that there were four in 1997?

4 A. (Witness nodded)

5 Q. If we see on the page, there's a note that there were
6 six in 2002, I think we see in the paragraph that's on
7 the screen there.

8 If we can look on, please, to page 18, at the bottom
9 of the page, page 18, there's a question:

10 "How many children in total were accommodated by the
11 Local Authority?"

12 Again you were able to find some record of that in
13 respect of the Stirling County Council period that we
14 can see in the last paragraph on that page, but again
15 that would be for the whole of the County Council and
16 not just for the East Dunbartonshire area?

17 A. Yes, that's correct.

18 Q. Then if we go over the page, please, at the top of the
19 page, again for the Strathclyde period, it wasn't
20 possible to identify children relevant to your current
21 boundaries.

22 For 1996 to 2014, you have noted that 346 children
23 had been accommodated by East Dunbartonshire Council
24 over that period.

25 A. Yes, that's right.

1 Q. A total number?

2 A. A total number in all types of accommodation.

3 Q. Then I think below that when you were asked the

4 question:

5 "In general terms, what was the main service

6 provided by the Local Authority, was it residential or

7 foster care?"

8 There's a table there that we can see. Again for

9 county councils covering more than just your area, but

10 we can see that -- I think this is all from 1948 or

11 1949: Dumbarton, 61 boarded out and 32 in residential;

12 Lanark, 60 boarded out and 75 in residential; and

13 Stirling, 169 boarded out and 202 in residential.

14 A. (Witness nodded)

15 Q. I think, as you note there, there was local variation?

16 A. Mm-hmm.

17 Q. So you refer to national figures that are available and

18 you say there was local variation?

19 A. Yes.

20 Q. And you've managed to find some information in relation

21 to that in the archives.

22 A. Yes. That was the -- it does show different profiles of

23 use of different types of accommodation services and

24 that's what we were able to source.

25 Q. Thank you.

1 If we scroll down to the bottom of this page,

2 I think under "1996 to 2014" we see, as you've noted:

3 "The main service provided by East Dunbartonshire at
4 disaggregation in 1996 was a 10-bedded residential care
5 unit."

6 A. (Witness nodded).

7 Q. You've noted that by 2010 the main service being
8 provided was foster care.

9 A. Yes, that's correct. So we've managed to see a shift
10 there away from residential care as being the only
11 available option towards a greater range of other more
12 homely settings for children and young people and that
13 balance of care shifting more towards home-based
14 placements.

15 Q. Did it take until 2010 to shift that balance?

16 A. I don't recall in detail the data that sits behind that,
17 but I would assume so because we have other information
18 about numbers of foster care placements. It is
19 possible, though, for East Dunbartonshire to be placing
20 children and young people outside of its own Local
21 Authority boundaries in residential or other forms of
22 accommodation within that time, so it's not solely
23 a potential that there's only 10 children and young
24 people in residential care, there are only 10 within the
25 local area.

1 Q. Okay. Because presumably if you didn't have a fostering
2 resource managed by the Local Authority, you would have
3 to look to voluntary providers --
4 A. Yes.
5 Q. -- or other Local Authorities?
6 A. Sorry, yes. It certainly meant looking at other ways of
7 accommodating children and young people when that was
8 required.
9 LADY SMITH: So at that stage you were probably having to
10 move them out of the area?
11 A. That's much more likely, without a local foster service.
12 MS INNES: If we can please move on to page 20, if we look
13 in about the middle -- yes, the table there. That was
14 numbers as at 7 November 2019, so in advance of
15 providing this Part A response. There we see that you
16 had 16 registered carers with 27 children in placement
17 and various types of placements available.
18 A. (Witness nodded)
19 Q. Has that changed since then, do you know?
20 A. I believe those figures remain fairly reflective of the
21 position. The number of registered foster carers has
22 been relatively stable around 20, with some variance up
23 and down for a number of years, and the number of
24 children in placement has also remained relatively
25 stable.

1 Q. So around the 25 to 30?

2 A. Yes.

3 LADY SMITH: Can I just ask you about those figures? I'm
4 sure there's a simple explanation. You have 16 foster
5 carers as of November 2019, a bird's eye view of the
6 situation there, 27 children in placement. Is that all
7 foster placement?

8 A. Yes.

9 LADY SMITH: So there'll be more than one child in some
10 foster homes?

11 A. Yes, there can be.

12 LADY SMITH: You have, on 7 November, two of them in
13 a foster home for respite care, nine of them for
14 short-term care, six of them for permanent care, two for
15 something called continuing care -- we'll come back to
16 that in a moment, I'm just looking at the maths just
17 now. That takes me to 19. I'm eight children short in
18 characterising the care.

19 A. I'm sorry, my Lady, I see your point on that and I'm not
20 able to fully advise on the details of that. If it is
21 helpful, the children in placement in total being 27
22 with the 16 registered carers, respite placements may
23 happen on more than one occasion, so it may be regular
24 respite, which may have been counted -- so two children
25 receiving respite may add to more than two respite

1 placements with foster carers --

2 LADY SMITH: It still leaves quite a bit --

3 A. -- and likewise short-term placements may result in one

4 short-term placement with one family being -- moving on

5 to a different family and resulting in also being

6 counted more than one time.

7 LADY SMITH: I can follow all that, but this is supposed to

8 be on a single day, 7 November.

9 A. My apologies. I --

10 LADY SMITH: Could you just have somebody look at that again

11 and make it clearer --

12 A. I certainly will provide information.

13 LADY SMITH: -- because it's a little confusing at the

14 moment.

15 A. Certainly, my Lady. Apologies for that.

16 LADY SMITH: Thank you.

17 MS INNES: Thank you, Caroline.

18 In relation to continuing care, what's a continuing

19 care placement?

20 A. A continuing care placement is a placement for a young

21 person who has reached the age where they could be

22 moving on but has chosen under their entitlement under

23 legislation to remain within that foster care setting,

24 which they're entitled to do up to the age of 21 and can

25 opt to do up to the age of 26.

1 Q. Okay. We've heard evidence that services had to
2 register separately with the Care Inspectorate for adult
3 placement services.

4 A. (Witness nodded)

5 Q. Is that something that's happened in East
6 Dunbartonshire?

7 A. No, this all remains within our registration as
8 a fostering service.

9 Q. Right, okay. Again just in terms of the numbers. In
10 terms of children in placement, would that include
11 children who are placed with carers who are not East
12 Dunbartonshire carers, for example?

13 A. The intention was to provide information on children who
14 are placed with East Dunbartonshire carers. It may be
15 that some of these anomalies in the figures are as
16 a result of counting placed elsewhere.

17 Q. Okay. Yes, it would be helpful if you could give us
18 some more detail on that and perhaps bring the figures
19 up to date as well.

20 A. I certainly will.

21 Q. It would be really helpful.

22 I also wanted to ask you about kinship care and
23 whether those are counted separately.

24 A. Yes, those are counted separately.

25 Q. Okay. Do you have any numbers in relation to that or is

1 that something that you'd want to go away and look at?

2 A. At the moment we have around 70 children and young
3 people in kinship care placements, so a greater number
4 than those that are in foster care, and again reflecting
5 the intent and desire to keep children and young people
6 with extended family and as close to that core family
7 group as possible, where that is safe and appropriate.

8 Q. Okay. And when you refer to kinship care, does that
9 have a single definition now or could it be that the
10 child is with the kinship carers on a number of
11 different legal bases?

12 A. That can happen on a number of different legal bases.
13 The definitions of kinship care, if I recall correctly,
14 have expanded over time to take account of originally
15 having started out as just people who were immediate
16 family members to more recently some recognition that
17 that may be expanded out to be other people who have
18 a close relationship with that child and young person
19 and have been part of their lives and know them well and
20 are well known to them without necessarily being
21 an immediate family member.

22 Q. Right. If we can move on, please, to page 22, we see
23 there under 1996 to 2014 you've provided some
24 information from the database in relation to the periods
25 that children spent in care, and there you have: 141

1 spending less than a year in care; 57, one to three
2 years; 13, three to five; and 20, five plus years, so
3 longer-term care.

4 Would the zero to one years include what was respite
5 and is now short break, I think, care?

6 A. Yes, it would.

7 Q. If we can move on, please, to page 23, under (k), you're
8 asked here:

9 "Did children typically stay in one or more than one
10 foster care placement?"

11 Again you've been able to draw some data from the
12 information held. You note that 46 per cent of children
13 accommodated in foster care by East Dunbartonshire had
14 more than one placement.

15 A. (Witness nodded)

16 Q. So that's more than one foster care placement?

17 A. Yes, that's correct. So nearly half of children and
18 young people experienced more than one placement, and
19 that may come about because the immediately available
20 foster placement is designated as a short-term
21 placement. It may have come about as an emergency
22 placement. The task is to then look for, if an ongoing
23 placement is required, a best fit for that child and
24 young person so that they can be in a family setting
25 that is most appropriate to them. So it's not uncommon

1 for there to be a move within the foster placement.

2 Likewise, there may be scenarios where -- and as has
3 been seen in some of the other evidence submitted, there
4 has been a care concern or a breakdown in that specific
5 placement, which would result in a different placement
6 arrangement being made.

7 So approximately nearly half of the children and
8 young people experienced more than one.

9 Q. Is that data in terms of placement moves that you might
10 analyse or look at on an ongoing basis in order to see
11 whether there are multiple moves, for example?

12 A. It tends to be reviewed more on an individual case
13 basis, and I think in part it's in relation to the way
14 that foster carers register what they express
15 an interest in providing, whether that be short-term
16 placements or whether they see themselves as offering
17 long-term placements from the outset. So we record the
18 data, but our focus in analysing it tends to be more on
19 individual children and young people and their own
20 journey through the care that they have received.

21 Q. Thank you.

22 Can we move on, please, to EDC-000000046, which is
23 Part C of your response. Page 2, please. There's
24 reference, a quote there from the Care Commission where
25 there's reference to the fostering service working

1 co-operatively with the West of Scotland Consortium,
2 which consists of ten Local Authorities working together
3 to ensure common standards of practice.

4 A. (Witness nodded)

5 Q. I just wanted to ask you a little bit about that. Does
6 the West of Scotland Consortium provide a forum for
7 co-operation in relation to all elements of fostering
8 provision, for example, or is it focused on a particular
9 area?

10 A. The consortium really provides a great opportunity for
11 the Local Authorities that were part of, as I understand
12 it, the ones that were part of the Strathclyde Regional
13 Council arrangements to continue to collaborate on their
14 policies, procedures, training arrangements,
15 understanding and developing and sharing best practice,
16 spreading the knowledge that there is within that
17 network. It does not tend to have a remit in relation
18 to specific care, foster carers or children within care,
19 but it provides a forum for the professionals involved
20 within those services to work together in response to
21 changing national expectations or guidance and to
22 develop local policies and procedures that fit with
23 that, and in recognition of the fact that being so
24 neighbouring, it's really considered important not to
25 have a kind of postcode lottery of how things fit or

1 function, so to try to have some consistency within the
2 West of Scotland area.

3 Q. Does it have a specific remit in relation to child
4 protection?

5 A. Certainly works in relation to the -- that description
6 around policy, procedure, training, good practice
7 sharing around child protection, and is currently
8 collaborating in response to the latest update to the
9 national guidance that is now required.

10 Q. You mentioned there that, given the geography, as it
11 were, it's important that there's not a postcode
12 lottery, you said. Can you just give us a sense of
13 whether there are any challenges or opportunities,
14 I suppose, in terms of East Dunbartonshire's location
15 and its shared history, I suppose, with neighbouring
16 authorities?

17 A. I feel that the shared history gives everybody within
18 that West of Scotland area a good starting point for
19 collaborative working, understanding how things have
20 evolved over time. When it comes to the actual local
21 delivery of the service, it is within East
22 Dunbartonshire Council's own policies, procedures and
23 remit. There's obviously a considerable variation in
24 size of Local Authorities that are made up within that
25 West of Scotland grouping, so it's always important in

1 any discussion about how policies and procedures would
2 work that those of us who are from smaller areas are
3 able to represent about what would be an appropriate
4 arrangement that fits for particularly some of the more
5 rural areas of the overall piece, so that it doesn't
6 become focused on what particularly Glasgow City as the
7 largest authority suits. So we have to work closely
8 together to make sure that anything we come up with fits
9 for our geography, for our demographics and for the rest
10 of the partnership arrangements that we have.

11 It is as you say, there can be some challenges but
12 also some really good opportunities to learn and share
13 and to develop something that works for right across the
14 area.

15 LADY SMITH: You mentioned one aspect there that I suppose
16 must be a significant difference between, say, you and
17 Glasgow, and that's the demographic.

18 A. (Witness nodded)

19 LADY SMITH: I think your demographic tends towards the
20 majority of your people being an older population --

21 A. (Witness nodded)

22 LADY SMITH: -- whereas the city will be rather different
23 from that.

24 A. Yes, my Lady, absolutely. The East Dunbartonshire
25 demographic has a particularly high proportion of older

1 age older people, with projections that that's probably
2 the predominant growth area of that demographic as well.

3 That said, and I think of relevance to the fostering
4 service development, it's also quite a high proportion
5 comparatively of children and young people with complex
6 physical or learning disability needs, which is in part
7 related to the high-quality school provision there is
8 for that specific service user group within the East
9 Dunbartonshire area, which does tend to affect people's
10 choices about where they want to be, where they would
11 like to receive their services, so there are some
12 interesting demographic challenges that tend to pull in
13 different directions, and within East Dunbartonshire,
14 although it is largely an area that doesn't suffer
15 a great deal of deprivation, there are specific pockets
16 of deprivation within the overall area and we're always
17 careful to ensure that we are thoughtful about that in
18 relation to how services are provided as well.

19 LADY SMITH: Does your demographic and these other features
20 also make it harder for you to find foster carers?

21 A. I certainly think that that is a factor, given our
22 increasing older age population. However, there is also
23 quite a lot of housing development happening within the
24 East Dunbartonshire area, which tends to give
25 opportunities for a different family mix, younger

1 families, professional couples, families with young
2 children, looking to live close to their commuter area
3 of interest, largely being Glasgow, but within a more
4 rural setting, so there are -- it changes over time.

5 LADY SMITH: Thank you.

6 Ms Innes.

7 MS INNES: Thank you.

8 In terms of again just staying with the issue of
9 geography, again because you're so close to other areas,
10 would I be right in thinking that some of the
11 neighbouring authorities might be looking to your
12 geographical area to recruit foster carers?

13 A. I think it's an inevitable consequence of shared
14 boundaries that, for example, we have a social media
15 campaign running at present to promote Foster Care
16 Fortnight, seeking expressions of interest from people,
17 as I am sure my colleagues in my neighbouring areas
18 probably also do. So it very much comes down to what
19 captures an individual family's eye in terms of where
20 they might like to express an interest and perhaps for
21 their own reasons of where they might see their local
22 geography actually fitting best. It's not necessarily
23 always within the area that we would see them as being
24 primarily resident in. So, for example, if their
25 extended family and grandparents are in a bordering

1 area, they might consider that to be more suitable.

2 Q. Okay, thank you.

3 Just in terms of policies and procedures, I think
4 you said that East Dunbartonshire obviously had to start
5 its own policies and procedures, and I think you have
6 told us in your response that initially you had to take
7 over the policies and procedures from Strathclyde?

8 A. Yes.

9 Q. And that formed a basis for the start of the fostering
10 service, but then they needed to be refreshed and
11 updated, and you've told us, I think, that there were
12 procedures in 2011.

13 A. (Witness nodded)

14 Q. I don't know whether you know if there were any other
15 changes between 1996 and 2011 or is that the first ones
16 that you've been able to find?

17 A. Yes, the Strathclyde Regional Council policies and
18 procedures were initially adopted, and then in 2001
19 there was a refresh to align it to the different
20 geographical area and East Dunbartonshire Council's own
21 policies and procedures.

22 In 2011 there was a further refresh in order to
23 reflect legislative changes and changes in national
24 guidance.

25 And then in 2014, there was a further development,

1 which took account of extensions of continuing care
2 rights for children and young people and other changes
3 to the Children's Hearing system.

4 And then most recently, in 2020, they were further
5 refreshed to pick up other developments there had been
6 in national practice and guidance.

7 Currently, the next scheduled refresh is due for
8 2025, but we'll bring that forward on the back of
9 anything -- findings from the Inquiry.

10 Q. I'd like to move to ask you about the case file review
11 that you undertook when responding to the section 21
12 notice. If we can look, please, at EDC-000000048,
13 page 2, under question 4, first of all.

14 Within that question we see reference to you having
15 told the Inquiry that your case review included a review
16 of all four files available pre-1995.

17 A. (Witness nodded)

18 Q. You explain in your answer that these were the only
19 four -- when you're saying "available", you mean you
20 only had four files within your possession that related
21 to pre-1996?

22 A. That's correct.

23 Q. I assume that the files for the Strathclyde period would
24 be held in the Strathclyde archive?

25 A. That's correct, yes.

1 Q. Then if we go on to question 5, please, just further
2 down, you were being asked there about the number of
3 foster carer files that you had looked at and what you
4 meant again by the term "available". In answer 5 it
5 says:
6 "The available files were all those held by the
7 Council that related to the Council's own internal
8 foster carers. Both paper and electronic files were
9 reviewed in all cases."
10 A. (Witness nodded)
11 Q. So I think you reviewed all of the foster carer files
12 that you held?
13 A. Yes, we did.
14 Q. If you go on, I think you just again refer to the point
15 about you didn't have any foster carers at the start of
16 1996 and then you built them up since then, and I assume
17 you looked at all foster carer files, including anybody
18 that had been de-registered within that time frame?
19 A. Yes, that's correct.
20 Q. Thank you. If we go on to page 3, please, and under
21 question 7. I think you referred to doing some
22 additional sampling of children's records and you were
23 asked to provide some further detail as to what you had
24 done. If you can perhaps explain how you approached
25 sampling the children's records?

1 A. Certainly. So we started with identifying all of the
2 children's records that had been in foster care
3 placement between 1996 and 2019 -- at the time of the
4 submission that was the last full year of data we had
5 available -- which gave us 228 records.

6 We grouped them then to look at sibling records
7 where they were placed together as one, and where they
8 were not placed together we continued to count them as
9 separate records. That brought us to 161 potential
10 cases to review.

11 We took advice from our performance and research
12 team within the Council in relation to an appropriate
13 sample size and were advised that we should aim to
14 review between 25 and 30 per cent of the files within
15 that cohort, so in order to start with the ones that
16 were most likely to be appropriate, file word searches
17 were undertaken in relation to the records that were
18 held for the types of terms or the types of forms that
19 you would associate with care concerns being raised or
20 allegations being made, so looking at where there was
21 reference to child protection or abuse or allegation,
22 and that drew out a core number that we reviewed, and
23 then in addition to achieve the recommended sample size,
24 we randomly sampled from the remaining files, spreading
25 that out over the decades under the review period to

1 give us I think it was a total of 45 files that we
2 reviewed, and that was 28 per cent of the records in
3 total.

4 They were reviewed in full, both paper and
5 electronic.

6 Additionally, the four that we had from the
7 predecessor arrangements were read in full. Clearly
8 that will be a very small percentage of the records held
9 then. I can't tell you how many that is because I can't
10 be told how many overall records there were in the
11 predecessor arrangements.

12 So we read the 45 children and young people's files.
13 Where a sibling file was identified as having a care
14 concern, we also ensured that we read any other siblings
15 within that group, so that gave us 45 service user files
16 and the 25 foster carer files in total.

17 Q. Thank you.

18 If we can look, please, at your Part D now, so it's
19 at EDC-000000022. Page 1, 5.1 that we're looking at.
20 In the four files that you had from 1975 to 1996, there
21 were no allegations of abuse in those files?

22 A. That's correct.

23 Q. Then in 1996 to 2014, you found evidence of allegations
24 of physical, emotional and sexual abuse.

25 A. (Witness nodded)

1 Q. If we scroll down the page to 5.2, under 1996 to 2014 we
2 see that 14 complaints were made in relation to 13
3 foster carers, and one against an adult son of foster
4 carers.

5 A. That's correct.

6 Q. If we look over the page, please, page 2, and under E,
7 you were asked there:

8 "How many foster carers had been convicted of or
9 admitted to abuse of children?"

10 You found no convictions, but you found that two
11 foster carers had admitted to abuse.

12 Then at F, separately:

13 "How many foster carers have been found by the Local
14 Authority to have abused children?"

15 And there was one noted.

16 A. Yes, that's correct.

17 In relation to the two foster carers who admitted
18 abuse, on reflection it was felt that one of the
19 instances was not of a level that you would apply the
20 term "abuse" to. It had been an isolated and relatively
21 low-level incident that the young person themselves did
22 not consider to be abuse, so we had -- that's why the
23 numbers are different between those two tables.

24 LADY SMITH: What was it?

25 A. That was in relation to the one that there was

1 a follow-up query about, where the foster carer
2 self-reported that they had kicked a young person on the
3 foot.

4 MS INNES: I think if we go back to EDC-000000048, please,
5 and page 4, and question 8, you had been asked about
6 this complaint, I think, the one that you've mentioned.

7 A. (Witness nodded)

8 Q. You were asked for an explanation of something that's
9 found in your appendix, where I think there was
10 a comment that the child minimised the incident.

11 A. (Witness nodded)

12 Q. Then, at answer 8, you say:

13 "The foster carer called the social work department
14 first thing in the morning to self-report an incident
15 from the previous day. He advised that he had kicked
16 the young person in his care on the foot following
17 a disagreement during which the young person had struck
18 the carer. The same day, a home visit was undertaken by
19 the social worker and team manager and all parties were
20 spoken to. The young person advised that he felt the
21 incident was 'nothing ... a tap' and he did not wish
22 further discussion of the matter. He stated that he did
23 not wish police involvement and he didn't want to speak
24 further about it and would not speak to the police. The
25 young person was 15 at the time. A safety plan was put

1 in place to support the carer to safely manage any
2 further challenging incidents within the home and the
3 matter was concluded. On balance, it was not felt that
4 a referral to the police would be a proportionate
5 response, taking into account the view of the young
6 person and the account of the incident by all involved."

7 A. Yes, that's correct.

8 So a judgement was made on balance in discussion
9 with the young person, with the foster carer themselves,
10 taking account of the policies and procedures which make
11 reference to the need to be proportionate in what can be
12 challenging scenarios.

13 The young person also continued to state they felt
14 safe within the care of that foster carer and did
15 continue, initially in a full-time basis which moved on
16 then into a shared care arrangement between that foster
17 carer and the Local Authority's residential home, which
18 sustained for quite a considerable period of time.

19 LADY SMITH: What definition of "abuse" was your authority
20 using?

21 A. I think that's an excellent question, my Lady.

22 LADY SMITH: Thank you.

23 A. It is clearly a question of thresholds and it's
24 something that in doing the file reading and preparing
25 the revised submission myself and my team have been very

1 thoughtful about. There are some things within our
2 submission that would be better described as a quality
3 of care incident, recognising that foster care itself
4 does present challenges. It's a difficult role to do.

5 The judgement was clearly made by the team manager
6 and the social worker who undertook the visit at this
7 time that it didn't constitute abuse and it wasn't
8 further described as that within the case plan.

9 I can't comment on whether workers going out to
10 a similar situation today would reach the same decision.
11 The foster carer had been concerned enough about the
12 matter to report it the morning after it had occurred,
13 so --

14 LADY SMITH: But exactly, he regarded it as something that
15 mattered.

16 A. Yes.

17 LADY SMITH: I just wondered whether what was going on here
18 was a line of thinking to the effect that if what
19 happened didn't merit reporting to the police as
20 a potential crime, then it didn't fall into the abuse
21 category, and that would never be right.

22 A. It does appear that that might have been part of the
23 thinking in that threshold -- threshold judgement at the
24 time.

25 There are scenarios where a single agency

1 investigation undertaken by only social work, for
2 example, is considered an appropriate response to what
3 had occurred. I couldn't say whether we would treat
4 that the same way today, but that was the decision that
5 was made at the time.

6 LADY SMITH: Thank you.

7 MS INNES: I suppose, Caroline, you would also want to think
8 carefully about the reaction of the young person and
9 perhaps just because he says he doesn't want to treat it
10 as abuse and he doesn't want to discuss it further
11 doesn't mean to say that it wasn't abuse, if you see
12 what I mean.

13 A. Yes, I absolutely agree. There are many reasons why
14 children and young people might seek to minimise or
15 indeed not report incidents and I think part of the
16 ongoing evolution of the foster care approach and the
17 understanding of what's needed is further commitment to
18 finding ways to make sure that children and young people
19 can tell somebody if something is not right and have
20 confidence that that will be acted on appropriately. So
21 I absolutely agree that there is something to be
22 thoughtful there in letting a 15-year-old decide what
23 the outcome of that action is.

24 Q. If we could move on now, please, and look at your Part B
25 response, EDC-000000049. I think, as we said earlier,

1 this is a revised response that you've submitted.

2 So in terms of the first question:

3 "Does the Local Authority accept that any children
4 in care were abused?"

5 The answer to that is yes.

6 A. (Witness nodded)

7 Q. You refer to your file review that you've carried out.
8 If we scroll down a little, please, there's
9 a paragraph beginning:

10 "Accordingly, it is the Council's assessment that
11 the extent of abuse for the period appears to be limited
12 [as in the period 1996 to 2014]. This assessment has
13 been reached following careful consideration of the
14 files which contained complaints of abuse."

15 Then you go on to say in the next paragraph:

16 "The Council does however recognise that there may
17 be instances of abuse which were not recorded in the
18 files or where the victim did not feel able to make
19 a complaint."

20 It's noted that obviously should that be found, that
21 would be a matter of great concern.

22 You refer there to in the intervening years the
23 Council has also taken significant steps to make it much
24 easier for children in foster care to report concerns of
25 any nature, including the implementation of an app,

1 a Champions' Board has been instituted and
2 a care-experienced modern apprentice has been employed.

3 Can we turn to look at each of these matters, and
4 perhaps if it assists, we can look at EDC-000000046
5 again, please, and page 7. Maybe the bottom of page 6
6 might put it into context.

7 LADY SMITH: We're back to the Part C response again?

8 MS INNES: Yes.

9 At the bottom of this page, we see that you say:

10 "East Dunbartonshire demonstrates ongoing commitment
11 to hearing the views of children and young people, both
12 in terms of their experience of the care and services
13 they personally have experienced and in terms of
14 influencing policy, practice and service developments
15 and has most recently made the following further
16 developments in support of this."

17 If we go on over the page, please.

18 First of all, you talk about the introduction of the
19 care leavers' Champions' Board. Can you tell us
20 a little bit about that, please?

21 A. Yes, certainly. The care leavers' Champions' Board is
22 made up of people who have -- who are care-experienced
23 children and young people within the area. They come
24 together to do a range of functions, as a board, to
25 provide comment and direction and views on service

1 developments, on policy and procedure, on the way that
2 their services are experienced. They have -- undertake
3 a number of sort of subgroup actions that are
4 particularly targeted to try to encourage care leavers
5 and people who are care experienced to come together to
6 share their views. So different types of subgroups
7 focused on different types of activities. The intention
8 being that that voice of the care-experienced young
9 person and that journey that they have personally
10 experienced through the care system is brought to the
11 people, and particularly we have people who hold
12 corporate parenting duties attending that board to hear
13 what that real experience is like. So what is it like
14 when you try to move on into your own accommodation,
15 what is it like when you're trying to access tertiary
16 education or when you're trying to access skills
17 development opportunities and to have people who hold
18 those corporate parenting responsibilities hear the real
19 stories so that they can better understand how the way
20 that they design and deliver their services affects the
21 people who are -- who have been care experienced.

22 So we feel that that's very positive and it also
23 enables our young people who are part of that board to
24 connect across Scotland with other young people who are
25 likewise in other care-experienced Champions' Boards and

1 to see themselves as a community of support to each
2 other, but also as voices to those of us who design and
3 deliver services.

4 Q. When you're talking there about people with corporate
5 responsibilities or corporate parents, I think you're
6 perhaps referring to other organisations who have
7 a corporate parenting role or policy.

8 A. (Witness nodded)

9 Q. So, for example, a university --

10 A. Yes.

11 Q. -- or some other kind of public authority?

12 A. Yes. And also importantly the Council itself and its
13 various departments within that, the health board,
14 police are key people around the table with corporate
15 parenting responsibilities.

16 Q. Then you note that young people have become involved in
17 various pieces of national work, such as working with
18 Children's Hearings Scotland and sharing their
19 experiences at a training event for new panel members,
20 so I think that's panel of the Children's Hearing?

21 A. Yes -- yes, sorry. Yes.

22 Q. Then in the next section that we can see now, we can see
23 reference to the care-experienced modern apprentice post
24 that you referred to, which I think just started this
25 year.

1 Can you explain a little bit about that and how that
2 assists children in foster care?

3 A. So, yes. A specific recruitment of a care-experienced
4 person into a modern apprenticeship post with a remit to
5 be influencing and informing and engaging with children
6 and young people who are in the care system, regardless
7 of what their care setting is.

8 The modern apprentice post takes a particular focus
9 on the children's house project, which is about
10 assisting people who are leaving a care setting to move
11 on into their own accommodation and sustain that
12 successfully, and the work of the Promise following the
13 National Care Review, which we've been taking forward in
14 East Dunbartonshire.

15 So encouraging people who are care experienced to
16 speak up, to have their voices heard, to join the groups
17 and forums and the ways in which they can influence what
18 we do and how we do it, and really trying to make that
19 a positive approach and to destigmatise that journey of
20 having been care experienced and actually recognise that
21 children and young people then bring a lot -- a lot of
22 personal experience and views that we should be
23 listening to into the development of our services, so
24 we're very pleased with this most recent development.

25 Q. Then at the bottom of the page there's a section on the

1 app, Mind Of My Own, and you say that your child
2 protection committee agreed to commission an app in
3 a bid to make it easier to hear the views of children.
4 Can you explain a little bit about that, please?

5 A. Yes. Very much recognising that historically systems
6 that listen to children and young people tend to be
7 designed around systems rather than when and what it is
8 that children and young people want to say and trying to
9 modernise that approach by shifting towards a more
10 technology-based model that allows children and young
11 people to give their personal views about any element of
12 the care that they are experiencing, whether it's the
13 foster care placement itself -- and it was commissioned
14 by the child protection committee specifically in
15 relation to experience of child protection procedures,
16 but it enables that child or young person at a time that
17 suits them to put a digital view in, which they're
18 obviously much more -- generally much more competent and
19 comfortable with than most of us in services, and then
20 that view is received by their social worker and can be
21 taken into account as part of their individual care
22 planning.

23 So we're really trying to be -- to think about how
24 it is that children and young people want to tell us
25 what's happening, really reflective on some research

1 over the years and most recently a piece in 2014 that
2 I read that talks about the things that -- the things
3 that enable abuse to happen within care undetected,
4 which are in part about not actually seeing children and
5 young people enough on their own and not giving children
6 and young people enough opportunities and ways to
7 express their views.

8 So we're trying to move forward with that to create
9 digital ways that children and young people are
10 comfortable with, where they can, at a time that suits
11 them, say something and then decide with their social
12 worker how they want that taken forward. Those views
13 can then inform child protection processes, fostering
14 service experience, Children's Hearing decisions and any
15 part of the life of that child or young person.

16 LADY SMITH: Why does the child need an app to do this
17 rather than simply have the ability to text a social
18 worker?

19 A. It's a secure way sending the information and it also
20 ensures that it goes into a system where the numbers of
21 reports can be collated and recorded and we'll be able
22 to analyse the information, so rather than depending on
23 individual workers putting that in separately, it brings
24 it all together.

25 LADY SMITH: But the child can be sure that they are only

1 speaking digitally to their own social worker?

2 A. Yes, that's correct. It's routed to their allocated
3 worker.

4 LADY SMITH: Can they use this app to report abuse?

5 A. Yes. They can use it to report anything that they wish.
6 And it is always in addition to the opportunity to talk
7 on the phone or to see someone in person or to seek
8 support from an independent advocacy service to express
9 a view. It's by no means a replacement. We're just
10 expanding the range of ways that we can offer children
11 and young people to communicate with us.

12 LADY SMITH: Are there sufficient spaces on the way this app
13 works for the child to have free text opportunities --

14 A. Yes.

15 LADY SMITH: -- without being constrained to only answering
16 specific questions?

17 A. Yes. It's very much led from the perspective of the
18 young person.

19 LADY SMITH: Thank you.

20 MS INNES: If the young person used the app to raise
21 a serious and immediate concern, would that be flagged
22 in any way or --

23 A. (Witness nodded).

24 Q. -- is it something that's only looked at, for example,
25 during working hours by a social worker?

1 A. The app itself would only be looked at during working
2 hours, but it would be looked at regularly during
3 working hours. So it's not an ideal route to express
4 an immediate safety concern. We would still -- and
5 that's part of the information that we give to children
6 and young people, it is about telling them how they
7 reach somebody when they need to reach somebody, so we
8 wouldn't recommend it as a kind of immediate reach out
9 for help mechanism, but if they were to do that, it
10 would be picked up as soon as possible within working
11 hours.

12 Q. Thank you.

13 You mentioned elsewhere in your response I think
14 children's rights workers previously used by the Local
15 Authority and also commissioning services from Who
16 Cares? Is that still ongoing alongside these routes
17 that you've mentioned or not?

18 A. The directly employed children's rights officer role has
19 been dropped in favour of commissioning more independent
20 advocacy, recognising that even with the best will in
21 the world that it can appear off-putting if you can't
22 see an independent third party to take your views to.
23 So rather than that being a single specific role within
24 the Local Authority, we commissioned Who Cares? and
25 another advocacy provider to ensure that there are

1 advocacy opportunities for children and young people,
2 regardless of where in the particular care or protection
3 journey that they might be.

4 Q. Can I just take you back to your Part B again, so
5 EDC-000000049, page 2. Question 3.2, where the Local
6 Authority is being asked whether it accepts that its
7 systems failed to protect children in foster care from
8 abuse. What's the Local Authority's position in
9 relation to that?

10 A. Yes, having reviewed the 14 allegations made within the
11 files in detail, the view remains that systems
12 themselves wouldn't have prevented any of these
13 individual scenarios. They were very specific to the
14 circumstances, the matters in front of people at the
15 time, and I think it would be unfair to say that there
16 was an easy system solution that would have prevented
17 any of them.

18 So the view remains that while it was clearly
19 evident that the quality of care for some children and
20 young people fell below the standards that we would want
21 for them, and in some cases that did constitute abuse
22 taking place, I think it -- we didn't feel it was
23 something that we could fix as a system.

24 Q. At paragraph 3.3, if we go over the page, please, this
25 is asking about the Local Authority's position as to

1 whether there were any failures or deficiencies in its
2 response to abuse. What's the Local Authority's
3 position in relation to that?

4 A. Yes, so the detailed review of the case files left us
5 disappointed that it appeared that while we could see
6 that there was an allegation and that there was
7 a response or a visit or a safety plan or a child
8 protection process, what wasn't consistently clear from
9 the files was the detail of what the outcome of that had
10 been, and, importantly, how that had been communicated
11 back to the children or the young person or the other
12 person making the allegation, indeed including the
13 foster carers themselves.

14 So we felt that the process has unfortunately for us
15 identified a need to give some further thought to how we
16 make sure that it -- it's about closing that loop, so
17 that it is clear to a young person later on in their
18 life if they want to review their records that they can
19 see the story of what happened at the time and how that
20 was dealt with in full, and we did find that there had
21 been some areas where closing that loop in recording
22 what the outcome had been and how that had been
23 communicated fell short of what we would have expected.

24 Q. I think you note that you intend to address these
25 deficiencies, and at paragraph 3.4 you say that having

1 reflected on 3.3, the Council would reinforce with staff
2 the importance of recording outcomes of complaints, who
3 has been advised of the outcome and what has been
4 stated. This is the current expected practice. This
5 reinforcement of the expected practice is being taken
6 forward as part of the Council's overall reflections
7 from the file-reading process."

8 Was there anything else in addition to that that
9 you've gained from the file-reading process?

10 A. I think that in addition to that, which we absolutely
11 will take period, and I've already been in discussion
12 with the senior team around our children's services
13 about how we might do that, I think also -- and this
14 again is reflected in various pieces of research and
15 indeed some quite recent reports. I think there is
16 a challenge around thresholds and what the difference
17 between a quality of care concern and an appropriate
18 response to that is and when that crosses over into
19 abuse. And we will also reflect both in terms of what
20 our policies currently say, because our policies are
21 very clear on how allegations of abuse should be, how
22 the follow-up information should be recorded within the
23 files, so it's there in the policies, we need to
24 understand why that's not translating into practice, and
25 I think that that may sit in that slightly grey area

1 between quality of care and abuse and how we are making
2 that judgement about where exactly an incident might
3 sit.

4 Q. I wonder whether there should really be a difference in
5 terms of the recording. Would it not be better to
6 record as much as possible as clearly as possible,
7 irrespective of the way in which the investigation
8 proceeds?

9 A. Yes, I absolutely agree that that would be best. In
10 terms of what our policies currently say, it is less
11 specific about things that could be considered to be
12 a quality of care concern. It's very specific about
13 abuse. So in our reflective conversation as a team we
14 may need to reconsider the policy so that it is clear
15 for both, so it's not ambiguous, but I also think
16 there's a bit of work in that, where those thresholds
17 sit.

18 LADY SMITH: Given that inadequate care, failure in quality
19 of care, could amount to abuse, why not have a default
20 position of recording everything, even if in doubt which
21 side of the threshold -- if you need to think in terms
22 of thresholds, which side of the threshold it lies?

23 A. Yes, I think ideally that would be the case, that we
24 would record everything and any person looking at their
25 file at a later date would be able to see that journey.

1 I am aware that from the perspective of foster
2 carers, they're quite keen at a national level that
3 there is some distinction between quality of care
4 concerns and abuse because of how that feels as the
5 recipient of that, but I think that your point is well
6 made that it should be recorded in full appropriately,
7 regardless of where that sits threshold-wise.

8 LADY SMITH: Thank you.

9 MS INNES: I suppose another issue that we know from
10 research is that sometimes there can be a number of
11 apparently low-level concerns expressed and then abuse
12 is not detected.

13 A. (Witness nodded)

14 Q. I think that's fed into things like chronologies and
15 making sure these are recorded. So perhaps it's
16 a similar type of issue, that even if the Local
17 Authority think it's a low-level concern, it needs to be
18 taken seriously.

19 A. Yes, absolutely, and we've -- just concluding
20 significant work to strengthen our reporting of
21 chronologies so that that type of analysis can be better
22 undertaken. I think chronologies is probably nationally
23 a sticky one. There are many reasons why, even though
24 we know that chronologies are an important tool, it can
25 be difficult in practice to make that work, but we've

1 just concluded some further work to try and ensure that
2 they're as robust as they can be.

3 Q. Why do you say in practice it's difficult to make them
4 work?

5 A. Because it is -- there continues to be differences
6 across different systems and about what different
7 organisations might know what and how that comes
8 together into one chronology that makes sense from the
9 perspective of the life experience of the child or young
10 person.

11 So in order to have a truly comprehensive
12 chronology, you would be looking for information
13 reported across a range of sites that don't currently
14 have an easy way to bring that together that suits data
15 protection requirements.

16 MS INNES: I see.

17 Thank you, Caroline, I don't have any more questions
18 for you.

19 LADY SMITH: Caroline, I have no more questions for you
20 either. Thank you very much for coming here today --

21 A. Thank you, my Lady.

22 LADY SMITH: -- to help us beyond what we've already
23 received from you in writing. That's been of great
24 value to me.

25 You've managed to finish before 11.30, well done.

1 I'm able to let you go, and please take our thanks back
2 to your Council as you do so.

3 A. Thank you, my Lady.

4 (The witness withdrew)

5 LADY SMITH: We can take the break now, Ms Innes, and
6 whenever the next witness is ready after the break we
7 can get started.

8 MS INNES: Thank you, my Lady. He is here, so he can start
9 whenever your Ladyship decides that the break should
10 end.

11 LADY SMITH: Are we doing Western Isles next or Argyll and
12 Bute next?

13 MS INNES: Western Isles next, so it will be Ms Rattray.
14 (11.18 am)

15 (A short break)

16 (11.39 am)

17 LADY SMITH: Ms Rattray.

18 MS RATTRAY: Yes, my Lady. The next witness is Jack Libby,
19 who is the Chief Social Work Officer and head of service
20 for the Western Isles Council.

21 LADY SMITH: Thank you.

22 Mr Jack Libby (sworn)

23 LADY SMITH: I hope my first question for you is an easy one
24 for you to answer. How would you like me to address
25 you? I'm happy with Mr Libby or Jack, whatever would

1 work for you.

2 A. Jack, please.

3 LADY SMITH: Certainly.

4 Jack, you have the hard copy there I see of the

5 written responses that were sent in by your authority to

6 the Inquiry and you will be asked some questions in

7 relation to that. But parts of it will also come up on

8 screen when we're referring you to it, so use either or

9 neither, whatever you find helpful. Possibly we'll look

10 at some other documents as well, I'm the not sure.

11 Otherwise, any questions or concerns do let me know

12 so that I can do anything possible to make your

13 experience of giving evidence as comfortable as I can.

14 I know it's not easy to do this, but we'll try together

15 to make it, as I say, not too difficult.

16 If you're ready, I'll hand over to Ms Rattray and

17 she'll take it from there. Is that all right?

18 A. That's perfect, thank you, Lady Smith.

19 LADY SMITH: Ms Rattray.

20 Questions from Ms Rattray

21 MS RATTRAY: Good morning, Jack.

22 A. Good morning.

23 Q. Jack, we'll begin this morning with looking at your CV

24 that you've provided to the Inquiry. I'll run over what

25 you tell us in that document.

1 Firstly, in relation to your qualifications, you
2 completed a diploma in social work in 1998. You have
3 since undertaken further study, qualification and
4 training in mental health, in child protection and joint
5 investigative interview training.

6 In 2007 you became a trainer in joint investigative
7 interview training and you gained a chief social work
8 certificate in 2018.

9 A. That is all correct.

10 Q. In terms of your work history, you gained experience as
11 a relief social care worker and relief social work
12 assistant, both before and during your social work
13 qualification studies.

14 Your first post-qualification role was as child and
15 family social worker with Highland Council from 1998 to
16 2001.

17 Since then you have held posts focusing on child and
18 family services, which include team leader and service
19 manager, working in different Local Authorities, namely
20 Highland Council, Orkney and -- at this stage please
21 forgive my pronunciation -- Comhairle nan Eilean Siar.

22 A. Correct, and a good pronunciation.

23 Q. Thank you.

24 You've also held responsibilities as vice chair and
25 chair of child protection committee, social work adviser

1 to fostering and adoption panels, chair of child
2 protection case conferences and also of looked-after
3 children reviews.

4 A. (Witness nodded)

5 Q. From 2019, you have been head of service and Chief
6 Social Work Officer for Comhairle nan Eilean Siar.

7 A. (Witness nodded)

8 Q. As you're aware, Western Isles Council have provided
9 an A-D response to a section 21 notice, which was sent
10 by the Inquiry and we'll be looking at that response,
11 and that is at WIC-000000004. If we can start at
12 page 3.

13 Under the heading of "The history of the Local
14 Authority", I think we see a description of the current
15 council's geographical area, which says:

16 "It comprises the island chain from Lewis in the
17 north to Vatersay in the south, a linear distance of
18 170 miles and covering some 1,181 square miles. The
19 principal islands are Lewis, Harris, North Uist,
20 Benbecula, South Uist and Barra, together with a number
21 of inhabited smaller islands within the Local Authority
22 area."

23 Is that right?

24 A. That's correct, yes.

25 Q. You also tell us about the predecessor authorities for

1 the current authority, and from 1930 to 1975 Lewis was
2 actually part of Ross and Cromarty County Council,
3 whilst Harris and all the Islands south of that was part
4 of Inverness-shire.

5 A. That's correct.

6 Q. From 1975 to 1996, following local government
7 reorganisation, a unitary Local Authority was created
8 for the whole of the Western Isles and that at the time
9 was known as Western Isles Islands Council. Is that
10 right?

11 A. That's correct, yes.

12 Q. When there was further reorganisation in 1994, the
13 geographical area remained the same, but the name
14 changed to Western Isles Council and you also tell us
15 that the preferred name is Comhairle nan Eilean Siar,
16 which since 1997 has been used as the sole legal name of
17 the Local Authority?

18 A. That's correct, yes.

19 Q. I'm going to ask you some questions in particular about
20 Part A of the response, but before I do that, could you
21 help us by explaining the approach that was taken by the
22 Council to ingathering information in order to complete
23 this response?

24 A. So our approach was as follows. We commissioned two
25 experienced social workers, who reside in the Western

1 Isles actually, who are no longer in the employ of the
2 Western Isles.

3 We decided that our numbers were such that we felt
4 we -- well, we set ourselves a high bar actually, we
5 wanted to review all files. We felt the numbers were
6 such that we'd be able to achieve that, so we reviewed
7 all foster carer files that we had in our own existence
8 and those of all children who had resided in said foster
9 care placements over that period of time.

10 Q. Am I correct then just to clarify that you looked at the
11 children's files, that's in effect, as far as you're
12 aware, all of the children's files of all the children
13 who were in foster care over that time?

14 A. That's correct. We endeavoured to identify all children
15 in all placements in recent history. By that, I mean
16 when the files we had in our own possession at that
17 time.

18 Q. Can you tell us the general time period during which you
19 actually held files?

20 A. We held files from about 1980s onwards, I would say.
21 Files were in our possession then.

22 Q. I think you tell us that you've encountered some
23 problems in relation to looking at records and files
24 when it comes down to records that were held by the
25 predecessor authorities.

1 A. Correct. We did make a request of our predecessor
2 authorities -- or authority, and what we received was
3 not substantive in any way in terms of being able to
4 include in our submission.

5 LADY SMITH: So that was going back to Ross and Cromarty and
6 Inverness-shire?

7 A. That's correct, with the Highland Council.

8 LADY SMITH: Of course, they would since have suffered, if
9 I can put it that way, changes that might have affected
10 the way they retained files?

11 A. Correct.

12 LADY SMITH: I can see that. Thank you.

13 MS RATTRAY: If I could turn briefly to an addendum that you
14 provided us with, which will come on the screen in front
15 of you and is at WIC-000000007. If we could scroll up
16 a little bit more to about the middle of the page,
17 that's fine.

18 Here you helpfully answered questions into more
19 information regarding the files held.

20 A. (Witness nodded)

21 Q. You tell us that the total files reviewed were 65 and
22 you provide a breakdown of the files. Essentially these
23 were foster carer files; is that right?

24 A. That's correct, yes, essentially.

25 Q. Out of the 65, there were 41 foster carers who had gone

1 on to be approved?

2 A. That's correct, yes.

3 Q. You also provide a breakdown per decade, which is set

4 down there.

5 A. (Witness nodded)

6 Q. Is it right to say that the children's files you looked

7 at then would have been children's files -- all the

8 children's files in respect of those 41 approved carers?

9 A. That's correct, yes.

10 Q. Are you able to tell us how many children's files that

11 involved? It's --

12 A. It was 69 children over a 22-year period.

13 Q. Thank you.

14 Is it fair to say that the lack of records

15 generally, at least before 1975 and possibly later than

16 that, has had a significant affect on the Council's

17 ability to respond to the A-D questions, particularly in

18 terms of the further past?

19 A. That is correct. I would say it is most unfortunate,

20 because I believe that every child should have a true

21 and accurate record of their life, you know, whilst in

22 the care of the Local Authority. What we know about

23 care-experienced adults is they often now try and make

24 sense of their life, what brought them to the position

25 that they are, and I do apologise for, I suppose, any

1 care-experienced adult today who is trying to make sense
2 of their life who was in our care and where there's
3 a lack of information in our case files.

4 Q. I think you enquired beyond that. I think you say that
5 you consulted the memories of retired senior staff?

6 A. We did, that's correct, yes.

7 Q. How many staff were you able to consult?

8 A. From memory, we met with a previous Chief Social Work
9 Officer, Mr Iain MacAulay, who worked with the authority
10 for, I'm sure, three decades, between two and three
11 decades, so he had a great breadth and depth of
12 knowledge of children's services over that period of
13 time.

14 Q. I'm going to turn now to more of the detail in Part A,
15 and in particular looking at the development of
16 fostering services in the Local Authority area over the
17 time. Just really for note, at various stages
18 historically you refer to three documents and quote
19 those documents sometimes.

20 The first is a circular, number 18, of 29 June 1931
21 from the Department for Health for Scotland.

22 The second is Poor Relief Regulations of 1934.

23 The third is a public assistance circular of 1934.

24 I'm not actually going to take you to those, Jack.

25 I simply mention this for the record because, as it

1 happens, the Inquiry has already heard evidence about
2 those very documents from Professor Norrie at the start
3 of these hearings.

4 Just another formal matter. If we turn to page 5 of
5 WIC-000000004, about a third of the way down the page
6 I think you make the point about the Public Bodies
7 (Joint Working) Act 2014, whereby children's services
8 can work in integrated arrangements whilst in other
9 areas they remain the responsibility of the Local
10 Authority.

11 A. (Witness nodded)

12 Q. Whose responsibility are children's services in the
13 Western Isles?

14 A. Responsibility sits -- continues to sit with the Local
15 Authority. Through some internal reorganisation,
16 children's services now sit in the Department of
17 Education, Skills and Children's Services. Prior to
18 that, there was a Department of Social Work.

19 Q. Thank you.

20 Obviously the Inquiry is aware that historically
21 children from other Local Authorities were boarded out
22 in the island communities, and whilst the boarding-out
23 authority would have retained responsibility for those
24 children, have you been able to find anything at all in
25 the historical archives in relation to boarding out

1 during that period?

2 A. No, we haven't. Our understanding is that, yes, over
3 a significant period of time a number of children were
4 boarded out to the Western Isles, predominantly from
5 Glasgow is my understanding. In my own professional
6 career, I have come across families that had I suppose
7 an experience of that themselves. But, no, there were
8 no records to speak of.

9 Q. Are you able at all to comment on what impact that
10 system might have had on the availability of carers for
11 local children?

12 A. I suppose I can speak with some knowledge about
13 a particular case I was involved myself in in the early
14 2000s, which was a family that had been placed in the
15 Western Isles by a mainland authority. Unbeknown to us
16 at the time, they were placed in their own authority and
17 my understanding from my own involvement with the case
18 actually was the contact between said authority and the
19 children and the carer was minimal over that period of
20 time. There were difficulties with the placement that
21 we had to respond to ourselves, and the response from
22 the mainland authority, I suppose, was challenged by
23 them being on the mainland actually and they couldn't
24 respond at a pace that we were able to respond to with
25 ourselves. So we would often find ourselves in

1 a position where we were trying to support what was
2 a challenging placement.

3 LADY SMITH: This was a family that had been placed in
4 foster care in the Western Isles?

5 A. That's correct, by a carer who had been approved by
6 a mainland authority.

7 LADY SMITH: So a mainland authority had a Western Isles
8 resident on their books registered as a foster carer?

9 A. That's correct, who cared for many children over many
10 years.

11 LADY SMITH: Thank you.

12 MS RATTRAY: Do you know whether the Western Isles or its
13 predecessors were ever asked to visit such placements on
14 behalf of the mainland responsible authority?

15 A. From memory, I don't recall being asked. That doesn't
16 mean we weren't asked. I -- from memory I do recall
17 offering to support said placement to a degree further
18 than we were, but it was felt that they were -- the
19 preference was to do so themselves.

20 LADY SMITH: Do you know whether Western Isles were notified
21 at the point in time that this family were placed in the
22 Western Isles? Whether your Council was notified?

23 A. I'm unsure, my Lady. I certainly know that when I came
24 into position I was not informed of this arrangement.

25 LADY SMITH: Wouldn't you want to know?

1 A. I -- I -- I would and I do like to know who is in my
2 community at any given time in terms of children with
3 particular vulnerabilities and needs.

4 LADY SMITH: Yes, because I would have thought there must be
5 scope for liaison between the mainland authority and
6 your Council for the sake of the best interests of the
7 children.

8 A. I would agree with that, my Lady, and I believe also it
9 does not take much effort to involve other authorities
10 when such arrangements are in place.

11 LADY SMITH: Thank you. That's very interesting.

12 MS RATTRAY: Jack, the next section I'm going to look at
13 towards the foot of page 5 is in respect of the funding
14 of foster care.

15 At the foot of page 5 and in fact moving on to
16 page 6, in relation to the extent to which the Local
17 Authority provided funding to other organisations for
18 the purpose of provision of foster care, you refer to
19 some pragmatic considerations. What are you telling us
20 here? I'm referring to what you say at the foot of
21 page 5 and over the page to page 6.

22 A. So in terms of -- I'm just wondering if we can go over
23 the page just so I can read it in its entirety? (Pause)

24 Okay. So I'll speak generally, shall I, about
25 out-of-region placements, if I may.

1 My starting point is that children should be
2 accommodated within their own community and authority
3 wherever possible. And where we fail to do so -- and
4 I use that word intentionally, "fail" -- then it's
5 incumbent upon us to try and return these children to
6 their rightful community at the earliest opportunity.

7 I say that knowing that children have raised as
8 an issue in the past the changes of placement and we
9 have to take that into cognisance as well. But
10 I suppose one of the challenges is the retention of
11 significant relationships to the child, be that
12 relationships with a parent, wider family, and indeed
13 friends.

14 I would say for these children, retention of
15 relationships with wider family and friendships did not
16 happen, and with parents it did, but not to the extent
17 that any child should be having contact with a parent
18 where it is safe for them to do so.

19 Q. I think what it said here, it said:

20 "Due to pragmatic considerations, such as transport,
21 geography and the relatively small numbers of children
22 involved, it was expected that most children be cared
23 for in or close to their home communities by people from
24 these communities. Certainly within the relatively
25 modern era, although covered by the Inquiry's definition

1 of the past, there are only a few isolated examples of
2 the Local Authority providing for foster care through
3 third parties. In these instances it was through
4 national level charities, such as Action For Children
5 and Barnardo's."

6 I think at paragraph (c) on page 6 you tell us that
7 there's been very little use of those types of placement
8 and you're able to say that this kind of placement has
9 covered seven children, three of whom were siblings.

10 A. (Witness nodded)

11 Q. Those children, where were they placed when Barnardo's
12 or Action For Children or charities were providing
13 placement? Were those placements provided within the
14 Local Authority region or were they elsewhere?

15 A. So if I go into some specifics, I suppose, so the
16 sibling group of three were placed in South Lanarkshire,
17 in quite a rural part of South -- I know because
18 I visited, so it was particularly difficult to find and
19 particularly difficult to get to in terms of contact.
20 So that was the sibling group of three.

21 Another young person was -- they were predominantly
22 then -- the others were predominantly based in the
23 Central Belt, other than one that was based on the
24 northeast of Scotland, many miles from home.

25 Q. Generally what was the background to having to place

1 children in those locations rather than in the Western
2 Isles?

3 A. Capacity. Simply capacity. Well, I -- I would say
4 mainly capacity. One of the young people's behaviour
5 was such that the foster carers at the time were unable
6 to provide the levels of support and supervision
7 required to manage that particular situation at that
8 given point in time, but that does all relate to
9 capacity.

10 I would say on too many occasions for too many years
11 the reality has been that there hasn't been sufficient
12 capacity in the fostering service to truly be able to
13 meet the needs of children. You need to match children
14 to carers, and for that, to achieve that, you need
15 a greater number of carers than you do children
16 requiring care to truly match them to a placement.

17 Often it's the case that you're trying to find
18 a placement for a child. You're not sitting down with
19 options. And to truly match, you need options.

20 I do not know what excess percentage you need of
21 carers at any given time, but it's certainly more than
22 we do at this moment in time, as a nation, I would
23 argue.

24 Q. I think we've heard from other authorities about
25 essentially needing more, more foster carers. So is

1 that something which you just -- the Western Isles just
2 generally shares with other Local Authorities or is
3 there anything specific to being an island authority
4 which creates challenges in that respect?

5 A. I would say there's advantages and disadvantages of
6 running such a service, an island authority. I suppose
7 I'll make some generalisations here, if I may.

8 People tend to know a lot about one another's life,
9 or they believe they know a lot about one another's life
10 in communities such as our own. That's not unique to
11 the Western Isles and it's not unique to an island
12 authority, but it may be more evident in such
13 a community, I would argue.

14 So I want to focus on two things, if I may.

15 Reputation. So if you have -- there's a very active
16 grapevine, as you can imagine, in the Western Isles,
17 particularly around foster carers and those in the
18 foster carers' network, I suppose. So if the reputation
19 of your service is a positive reputation, then I believe
20 it makes recruitment that bit easier. Not easy, but
21 that bit easier.

22 So, as an example, in the wake of what's currently
23 known as the Western Isles Inquiry, where clearly there
24 were a number of concerns raised about children's
25 services in the Western Isles, you can imagine how

1 somebody may think twice about being a foster carer at
2 a given point in time.

3 I would say certainly over the last 10 to 15 years,
4 we've consistently had good and indeed very good
5 inspection reports and we like to publicise those
6 because that hopefully generates some confidence in the
7 community about the type of service that we're able to
8 offer them as foster carers but also for children.

9 So that's the reputational aspect of it.

10 There's another side --

11 LADY SMITH: Can I just check. When you say you publish the
12 reports, are you taking about the Care Inspectorate
13 reports or --

14 A. That's correct, my Lady.

15 LADY SMITH: Are you putting links to those reports on your
16 website or what?

17 A. We will use the local press to draw the community's
18 attention to these reports.

19 LADY SMITH: Ah. And then they'll know if they want to read
20 them, they can go to the Care Inspectorate's website?

21 A. That's correct.

22 LADY SMITH: Thank you.

23 A. So then there is the second component of the question in
24 my response is that foster carers go through, and
25 rightly so, a very robust assessment process. Some

1 argue it's too robust, I would argue otherwise, but my
2 point is that again in a small community where often
3 people know of one another, know one another, discussing
4 your life in great detail with someone within your own
5 small community can be challenging, understandably so.

6 And I would -- I'm full of admiration for those who
7 do come forward and be assessed, because there's
8 a degree of courage in that. I also understand why
9 people may think twice about doing so, because no matter
10 now much reassurance you give someone in terms of
11 confidentiality and discretion, some people who could be
12 very good foster carers may need more reassurance than
13 you can give.

14 MS RATTRAY: I'm going slightly off at an angle here and out
15 of order, but on that topic do you think the nature of
16 the small communities, do you think that would make it
17 easier or more difficult for a child in a foster
18 placement who was unhappy with their placement for
19 whatever reason, including possible abuse, would it be
20 easier or more difficult for them to be able to report
21 that abuse?

22 A. Potentially more difficult, because the reality is
23 there's communities within a community. So we discussed
24 earlier, we touched on the geography of the Western
25 Isles, and the Western Isles has a complex geography in

1 itself. It has communities within the community.

2 Very often it's the case that if a child has to move
3 placement, they have to move school. We've had children
4 that have had to move island. So children, particularly
5 older children in placements, will give some
6 consideration to weighing up again the pros and the cons
7 of speaking out. What will I gain by it? Possibly
8 safety. What will I lose by it? Meaningful
9 relationships, friendships.

10 Q. Thank you. Just whilst we're here, as I say, on the
11 question of funding, I think you make a comment that
12 from -- hearing from your retired staff, that within
13 living memory it was considered that the ethos of foster
14 care payments was to ensure that foster carers were not
15 worse off.

16 A. (Witness nodded)

17 Q. I think you tell us in response to the question of
18 whether funding was adequate, at page 7. I think you
19 make the observation, and I'll quote:

20 "In that we now contract foster carers via fees and
21 allowances, it would be hard to claim judging matters
22 through the lens of today's values and standards, that
23 historical funding was adequate."

24 That's your view on this?

25 A. It is our view on it. I would expand on that if I may,

1 though?

2 Q. Of course.

3 A. I think again there is (a) the requirement to ensure
4 that foster carers are sufficiently resourced to -- not
5 just to allow a child to have a good standard of life
6 and living, but also to be able to experience
7 compensatory experiences, if they have experienced abuse
8 and neglect in the past, I suppose I would be drawn
9 towards trying to make up for some of that, in terms of
10 compensatory experiences.

11 But it's also important to ensure that that money is
12 spent in such a way that absolutely benefits the child.
13 That is checks and balances, and that is -- you know,
14 I'm saying -- I don't -- I'm not mistrusting anyone, I'm
15 just saying there's a duty upon us to make sure that
16 it's the child that experiences the benefits of that
17 allowance. Because the allowances are generous now, and
18 rightly so, and should be able to provide these
19 compensatory experiences for children, making sure
20 children are actively involved in sport and culture and
21 things that they may not have had sufficient
22 participation pre becoming looked-after children.

23 Q. I think you make the point elsewhere in the response
24 that the payments to foster carers in the Western Isles
25 you believe are higher than perhaps payments to foster

1 carers in other Local Authorities, albeit you don't
2 provide any sums as such.

3 A. The numbers change. It's a wee bit -- like a league
4 table, I suppose, at times. You know, you do look at
5 what the others are paying and you certainly -- so on
6 last checking, on last checking, I would say that we
7 were in the top half, if you regard it as a league
8 table. It shouldn't be looked at as a league table,
9 absolutely not.

10 It is interesting, though, because we have 32 Local
11 Authorities in Scotland and theoretically you could
12 have -- at the moment you could have 32 different
13 payment rates and that makes absolutely -- we could have
14 12 Local Authorities or 64, would we have 12 or 64
15 different rates of payments. The payments should be
16 what it takes to sufficiently resource a foster
17 placement for a child of a particular age. Geography
18 should not come into it.

19 LADY SMITH: I see what you're saying there. Two questions.

20 First, have Western Isles deliberately been trying
21 to pay more than other Local Authorities?

22 A. No, and there are Local Authorities that pay more than
23 us.

24 LADY SMITH: Okay.

25 The second one is whilst on the face of it, it seems

1 easy to say wherever you work as a foster carer in
2 Scotland the rate should be the same, but will problems
3 creep in from authority to authority where one
4 authority, for example, says in cash we like to pay X,
5 but then in kind we provide access to a vehicle or
6 passes for something that's for the benefit of the child
7 or a direct provision of clothing vouchers or whatever.
8 You might then be driving Local Authorities into only
9 paying cash and doing nothing else, which could backfire
10 on the child? I don't know. Is that a problem?

11 A. Admittedly, my Lady. What I would say is we provide
12 free -- it's not gym access, because there's more to it
13 than a gym. Leisure facility access to all our
14 looked-after children and their carers, so we give them
15 a family membership, and we have not done any
16 calculation in terms of, well, do we need to reduce the
17 fostering allowance and fee to account for that. So --
18 but I can only speak for our own authority, my Lady.

19 LADY SMITH: Are you saying maybe the starting point would
20 be in terms of the money that passes hands, it might be
21 helpful if every authority paid the same rate and then
22 it's up to them and their discretion what else they may
23 or may not do?

24 A. I certainly think, my Lady, that should be a starting
25 point.

1 LADY SMITH: Thank you.

2 Ms Rattray.

3 MS RATTRAY: Thank you, my Lady.

4 Jack, at the foot of page 7 you make another point
5 in relation to foster care as a concept and role. You
6 say it developed massively over the period of time
7 covered by the Inquiry. That foster care was not seen
8 as a profession, career or job over much of the historic
9 period covered. You go on to say:

10 "Indeed, for much of the time it could be seen as
11 a moral imperative. Within the historical context of
12 the Outer Hebrides, with poor communication and
13 transport links, very isolated communities and large
14 families there was a fundamental need for communities
15 and extended families to look after their own."

16 You say:

17 "It would not be surprising that many of those who
18 would now be deemed foster carers or kinship carers
19 simply saw themselves as doing the right thing."

20 What are you saying here in terms of the provision
21 of care? Are you suggesting that people would step
22 forward to be foster carers because they considered it
23 their duty, their moral imperative, or are you referring
24 to communities stepping in to offer support to each
25 other on an informal basis?

1 A. Okay, so that's interesting because even in my own
2 family there's an example of this, where back in the day
3 somebody stepped in to care for a significant other,
4 I suppose, in my own family, and there's nothing unique
5 about my family, as you can imagine, in the Western
6 Isles.

7 So, yes, I think transport links weren't what they
8 were today.

9 Extended families -- now, we still have a semblance
10 of wide extended families in our community, but not to
11 the same extent as once was, I suppose. But many of our
12 outlying villages had very poor transport links. Some
13 didn't have roads, you know, but they were very close.

14 If I can -- as an example, if I look in the late
15 1700s, when my own father did an exercise in terms of
16 our own family tree, marriages were, you know, if you
17 married someone from the next village you know you were
18 pushing the boundaries of ... so people did tend to,
19 I suppose, look after their own, so to speak.

20 Now, I can't comment on how well they looked after
21 their own, but they certainly looked after their own.

22 Q. Thank you.

23 I'm going to now move to page 9 of the response and
24 at the top of page 9 you quote from the public
25 assistance circular 1934, which we've mentioned earlier.

1 The point you're making that in terms of that circular:

2 "A guardian of a boarded-out child ought not to use
3 the services of that child for the purpose of any trade,
4 business or calling carried on by him, except in the
5 performance of such light agricultural or horticultural
6 work as may be done by the child without risk of injury
7 to the child's health or of detriment to his educational
8 progress and general welfare."

9 You go on at the foot of the paragraph, at the end
10 of the paragraph, to comment:

11 "Clearly this regulation resonates with children
12 being cared for in remote island crofting communities
13 where 'light agricultural or horticultural work' for
14 children would be the norm over the reach of history."

15 From the information you've gathered, if not
16 available from documents from corporate memory, what
17 would "light agricultural or horticultural work" have
18 involved? Are you able to provide examples of the kind
19 of tasks or the hours involved? And in contrast to
20 "light", what would be considered to be "excessive"?

21 A. I will try. So I suppose at this point I can speak as
22 Chief Social Work Officer and a crofter, as someone who
23 has a croft themselves and livestock and other crofting
24 responsibilities.

25 A tough word, "light". I suppose I'm -- some of the

1 tasks aren't what I would describe as "light", so --
2 like cutting the peat, for example, if you may, as
3 someone who cuts peat myself and if I try and get my own
4 children to help me, I'm met with some resistance
5 mostly, because it's difficult, in truth. So there are
6 light duties, planting potatoes, as an example, and
7 lifting potatoes, then the following day your back might
8 not be in great shape.

9 How can I explain this? So I do include my own
10 children to an extent in crofting materials, if I may
11 use myself as an example. It allows me to spend time
12 with my children and it gets them off their screens for
13 a period of time, and I do try and talk to them at times
14 and sometimes they respond, sometimes they don't, but
15 it's about relationships. It's that bit about -- it's
16 a safe space to build relationships with children.

17 So one of our foster carers today, for example, has
18 a croft and some of her looked-after children in that
19 placement have thrived in that placement because it's
20 a non -- they're out at the croft, there's animals,
21 there's other things to do, they're not being asked
22 a series of questions about what their life has been
23 like up until that point and so on and so forth.

24 I think it's a very -- within reason, within reason,
25 it's a very effective way of establishing relationships

1 with young people on their terms, and hopefully it is
2 always on their terms.

3 Back in the day, I'm -- I wouldn't be surprised if
4 there was -- of children involved in some of these
5 crofting activities that would rather be doing anything
6 else anywhere else than doing it, and some of them would
7 have thrived doing it. That's my own view.

8 LADY SMITH: I suppose it goes back to what you're saying
9 about what exactly they were asked to do. If you take,
10 for example, teaching children to grow food, that could
11 give rise to a lifelong skill they'll always be grateful
12 for. But if it's simply the hard heavy work of cutting
13 peat or suchlike, that can be very tough, particularly
14 if your background was living in the city before then.

15 A. I agree, my Lady. I agree.

16 LADY SMITH: Ms Rattray.

17 MS RATTRAY: Thank you, my Lady.

18 I'm actually going to move on at this point to
19 page 17 of the response where you tell us about numbers.
20 At the top of the page, and I'll summarise the
21 information that's been provided, that from available
22 records and retired staff living memory you estimate
23 that there were 10 to 15 foster care placements at any
24 time, with the potential to accommodate between 15 to 20
25 children, very often in family groups, and the

1 placements were in use between 90 to 100 per cent of the
2 time.

3 A. Mm-hmm.

4 Q. But I think you tell us in the answer to paragraph (c)
5 that there were some issues with the recording of
6 numbers, and you say:

7 "The review of the files leads to the conclusion
8 that the files do not accurately record all the detail
9 of all placements. As such it is not possible to
10 accurately answer this question. Prior to the most
11 recent period, placements were not recorded fully in the
12 foster carer's files but rather included in the
13 children's files."

14 So you make reference to issues of recording. When
15 did that practice change in terms of there being
16 an overlap between the foster carer's files and the
17 children's files, or perhaps indeed only one file?

18 A. So I've looked at many files over many years and
19 I have -- I've seen, I suppose, to a small extent I've
20 been part of an evolutionary process in terms of files,
21 children's files, and it's been a positive evolution,
22 I would say.

23 Children, I would -- so I suppose the process went
24 something like this, where it was almost a file of
25 a placement, a particular person, to a file where there

1 were sibling groups, siblings sharing a file and not
2 being seen as children in their own right, to children
3 today having their own unique file that reflects their
4 own unique life.

5 So there has been a journey of improvement there.

6 I'll give you examples, when we get subject access
7 requests for a child who was placed as part of a sibling
8 group, and we've had a number of these, and the siblings
9 shared the one file, and trying to redact and -- you
10 know, it -- I suppose it must be very difficult for
11 a care-experienced person to try and make sense of
12 a redacted file, because again human nature being what
13 it is, you'll be as much focused on what's been
14 redacted, trying to second-guess what was redacted, as
15 what was not redacted.

16 So I think there's been a journey of improvement
17 there.

18 I've actually also seen a file where -- so mainly
19 what you would find was early-stage information of the
20 carers in a child's file. I did see one file where the
21 information about -- there was more information in the
22 carer's file than there was in the child's file,
23 unfortunately, but that was but one example of that.

24 Q. Returning to the question of numbers, at paragraph (e)
25 on this page, when asked about how many children were

1 accommodated in total, not just in foster care, I think
2 you identify that there have been issues in ascertaining
3 the exact numbers and that firstly historically figures
4 on children and young people in care would have been
5 returned to the Social Work Services Group, but it's not
6 been possible to locate those papers.

7 You also say that it's been difficult to ascertain
8 exact numbers, even from the inception of electronic
9 recording, but since 2008 you have 141 episodes of care
10 recorded on your careFirst system, but that doesn't
11 equate to 141 children.

12 A. (Witness nodded)

13 Q. Because there would be double accounting for children
14 being admitted twice and moving placement and so forth;
15 is that correct?

16 A. That's correct. Including respite placements would
17 particularly skew the figure, I would say.

18 Q. Really, the best estimate you can say is that since 2008
19 there have been fewer than 141 children who have been
20 accommodated, whether in foster care or other forms of
21 residential care?

22 A. Mm-hmm. So what I think we can say with some
23 confidence, with more confidence, is there's been 141
24 episodes of care over that period. Some of these
25 children will have had more than one multiple episodes

1 of care over that period.

2 I have been able to -- I don't want to introduce
3 a figure at this point, unless that's permissible, but
4 I've been --

5 LADY SMITH: Absolutely, let's hear it.

6 A. Okay. I think this is an important and interesting
7 figure, because we refer to ourselves as a small Local
8 Authority and we are a relatively small Local Authority,
9 but over the last 25 years, as an example, we've had 153
10 children -- not episodes of care, children in
11 a residential unit over the 25 years. So that gives you
12 a sense of how many children in our community have been
13 in that form of care.

14 Now the figures I have in front of me are that we've
15 had 69 children over the past 22 years in foster care.

16 My own experience as well, if I can move on to
17 kinship care -- and again it relates to still having
18 a semblance of extended family networks in the
19 community -- I would say that generally speaking we will
20 have as many, if not more, children in kinship care as
21 we do in foster care.

22 LADY SMITH: I have been hearing from a number of
23 authorities that tell me just that, Jack, more kinship
24 care than foster care.

25 A. That would seem to be the case, my Lady.

1 MS RATTRAY: Perhaps just to clarify, when you say kinship
2 care, do you mean formal kinship care which is
3 an equivalent of foster care? Or are you referring to
4 more informal arrangements, which might not be a child
5 in care as such, but has been in some way supported by
6 the social work department of the Local Authority?

7 A. Formal in as far as these are placements which we pay
8 a kinship allowance to and we support the carers.

9 Q. Thank you.

10 At the foot of page 17, paragraph (f), and over to
11 page 18, I think you tell us that residential care
12 provision has always been small, and so it's reasonable
13 to conclude that foster care has been the main provision
14 in the Western Isles.

15 A. (Witness nodded)

16 Q. I think we see that there's only one residential group
17 home, which is a four-bed home, small group home, which
18 in fact was taken over from Western Isles by the charity
19 Action For Children in 1998. But in reality, due to
20 geography, it essentially serviced Lewis rather than the
21 whole island chain. Is that correct?

22 A. I -- it is a Western Isles resource. There have been
23 children from -- I'll refer to them as Southern Isles
24 who have been placed, so to speak, in Hillcrest
25 residential unit over the piece, and that -- that goes

1 back to my earlier point about communities within
2 a community and, yes, we have had children from other
3 islands within our own locality in Hillcrest.

4 Q. I think at the top half of page 18 you tell us that
5 currently there are about 10 foster placements a year.

6 A. That's correct.

7 Q. And the current provision is foster care only?

8 A. That's correct, yes.

9 Q. I'm going to look now turning to the top of page 19, and
10 this is the section which asks about how children were
11 received into care.

12 I think one of the points you're making here is that
13 over time there's been a general move from care
14 placements being voluntary placements and with the
15 advent of the Children's Hearing system that they've
16 moved from voluntary placements to placements which are
17 perhaps subject to, for example, a supervision
18 requirement or a supervision order now. Is that right?

19 A. That's correct, yes.

20 Q. I think at paragraph (f) you put a caveat:

21 "Due to the small numbers of placements involved in
22 the Western Isles, it is dangerous to conclude there
23 were any patterns as one or two cases can skew what is
24 regarded as -- what is typical."

25 But you form the view that sort of typically, if it

1 can be typical at all, children are in foster care
2 between 6 and 12 months, but this can range from being
3 in care for a few days to some children being in care
4 for many years.

5 A. (Witness nodded)

6 Q. Is that right?

7 A. That's correct, yes.

8 Q. At paragraph (g), looking at who the decision-makers are
9 in terms of a child being taken into care, you tell us
10 that previously it was the senior social work
11 management, for example team leader and service manager,
12 in consultation with the case worker, and then there was
13 a specialist team. Can you tell us when the specialist
14 team was formed and who's in the team, which posts or
15 roles are in the team?

16 A. Okay, so what I would say is that the decision making
17 continues to be -- to be shared. So we have introduced
18 what we refer to as a resource panel, where a number of
19 senior staff within the organisation will sit down, look
20 at some -- there are times we have to make decisions in
21 real time and quickly, but when we are able to pause and
22 reflect, we will discuss children's circumstances at
23 a resource panel and see what resource it will take to
24 meet their needs.

25 That may be in terms of a placement or that may be

1 in terms of wrap-around support packages to allow the
2 child to return home if it's deemed safe to do so. So
3 that would typically be two service managers and two
4 team leaders, if they're all there at that particular
5 time having that particular discussion.

6 There are certain decisions that will need then to
7 come to myself to endorse.

8 Q. Thank you.

9 At page 20, paragraph (k), about halfway down the
10 page, when asked whether generally children typically
11 stay in one or more foster care placements, and with the
12 same caveat about commenting on what's typical with such
13 low numbers, I think you tell us that from the review of
14 files:

15 "Children and young people tend to stay in the one
16 placement throughout their period in care. Where there
17 were moves, this tended to be in young people in their
18 adolescence. Behavioural issues and responses to the
19 carer's management style were the crux of most such
20 breakdowns/moves of placement."

21 Can you expand on that at all for us?

22 A. I can. I am going to sort of veer in a slightly
23 different direction, if I may.

24 When I returned to the Western Isles to work in --
25 was it 2005, I would say we -- at the time we had

1 a disproportionate amount of young people in
2 an out-of-region placement, mainly residential
3 placements. And these were decisions that, I suppose
4 some we made ourselves as an authority because we were
5 unable to manage some of the behaviours and that's
6 a reflection on ourselves, not on the children, and some
7 were decisions taken by children's panels.

8 So we did have, I would argue -- I would argue any
9 is too many, but we had too many children out of region,
10 and we needed to improve our own provision, make it more
11 robust. So back then, back in 2005 and the years
12 surrounding that, our out-of-region placements were in
13 double figures. The minority of them were for children
14 with disabilities, the majority were for children who --
15 whose behaviour schools couldn't manage, we couldn't
16 manage in care.

17 Today, we have no children who are out of region due
18 to these type of reasons. So that has been fairly
19 transformative in terms of I suppose where there's
20 a will there's a way and a shift in culture where it's
21 about, "They're our children and we need to take
22 responsibility for them ourselves".

23 And if a child has to go out of region for -- due to
24 our difficulty managing behaviour as a community, then
25 that reflects poorly on us, not on the young person.

1 So sorry for going off on that tangent, but
2 I thought I wanted to get that important point in.

3 Now I'll answer your question in full, if I may. So
4 in terms of placements, yes, so professionally, my own
5 professional experience is over -- over the course --
6 I have seen too many young people, too many adolescents
7 having too many moves over too many years. That does
8 leave a legacy in terms of attachment, relationships,
9 ability to feel rooted to the spot, ability to feel you
10 can predict what tomorrow brings.

11 With every -- a move of placement, not always, but
12 it can be felt as -- experienced as an adversity to the
13 child themselves. You know, it has a lasting impact.
14 Not irreparable, but lasting.

15 So our submission is that in terms of the younger
16 children these placements do tend to endure longer, and
17 that's great because that allows relationships to form,
18 and when you've got an established relationship, and
19 again this is from my own experience, when the situation
20 does get difficult, you know, when a child -- when
21 an adolescent is -- not -- and any adolescent,
22 care-experienced or otherwise, starts behaving typically
23 as an adolescent, when you've got that relationship
24 that's been allowed to form over a period of time,
25 placements are less likely to break down, I would argue,

1 because there's that investment being made by both
2 parties.

3 When adolescents come into care as an adolescent --
4 and again I'm just speaking about my own experience, my
5 own view -- when they come into care as an adolescent
6 exhibiting typical and some untypical adolescent
7 behaviours, that does introduce some fragility to
8 a placement, I would argue, that may not have been there
9 otherwise.

10 Q. Perhaps moving onto that, to page 21, which is
11 paragraph (n) about halfway down the page, this is the
12 section where you tell us about support offered to
13 children when they leave foster care, essentially after
14 and through care. You set out various options as to
15 what a young person might do.

16 But you make the point towards the foot of the
17 answer to paragraph (n) is that:

18 "Most recently, foster carers who had retired from
19 fostering offered supported lodgings to care leavers."

20 A. (Witness nodded)

21 Q. How did that arrangement come out? Was that
22 an initiative of the Council or was that retired foster
23 carers coming forward and volunteering?

24 A. So if I speak about aftercare, in terms of aftercare in
25 the Western Isles, again I think there's been

1 an evolution and there's been transformation there, if
2 I say so myself.

3 Now if you go back to the Sweet 16 report
4 commissioned by the government at the time, undertaken
5 by the Children's Commissioner -- it might have been
6 2004 or thereabouts. Anyway, it very much focused on
7 children, looked-after children leaving care too soon,
8 ill-equipped, underprepared, and the Western Isles were
9 specifically mentioned in the Sweet 16 report.

10 Our percentage of children being removed from orders
11 before their 16th birthday was certainly higher than the
12 national average, hence why, I suppose, we were
13 mentioned specifically. So too many looked-after
14 children leaving their placements as soon as they
15 possibly could, and wanted, and we know that does not
16 contribute to positive outcomes.

17 Again, I talk about typical adolescent behaviour.
18 I have a 16-year-old at home myself who given half the
19 chance would leave home every other day, but he doesn't,
20 so that tells you something, I suppose.

21 Then a number of years ago I was doing preparation
22 for a training or a talk I was giving, and at that
23 particular point in time the Western Isles had the
24 highest percentage of 16- and 17-year-olds on orders,
25 and there was a -- where there's a will, there's a way.

1 So we went from performing really poorly in that respect
2 to, I would argue, performing at a level that one should
3 expect of any Local Authority in the country, which
4 is -- and it does challenge a no order principle, I know
5 it challenges the no order principle, and it challenges
6 listening to children, I know, but it's up there with
7 corporate parenting, sometimes as a parent you have to
8 say, "I hear what you're saying, I understand what
9 you're saying, but on this occasion I'm going to do
10 something different because I believe what I'm going to
11 do is for your betterment". And that's about holding
12 onto that order for a period of time longer.

13 If you explain to a 15-year-old, for example, that
14 we want to keep you in the order because part of the
15 reason is you need to be on it, but also it means that
16 we will have to support you up until your 26th birthday,
17 it's almost counter-intuitive for a 15-year-old
18 looked-after child to want you to support them up until
19 their 26th birthday, but you know that there will come
20 points in their life that you are exactly what they
21 need.

22 Q. At this point, Jack, I'm going to move to Parts B and D
23 of the response.

24 Firstly to Part B, which is in the same document at
25 page 35. This is the section where we ask you about

1 your knowledge of abuse within the Local Authority and
2 acknowledgement of abuse and any systemic failings.

3 I think what you're telling us here under
4 acknowledgement of abuse is that no foster carer has
5 been convicted of abusing a child in their care to your
6 knowledge in the Western Isles, but you also acknowledge
7 that the information you have from predecessor
8 authorities is scant.

9 A. Mm-hmm.

10 Q. You tell us that there are three instances where the
11 Local Authority concluded, on the balance of
12 probabilities, that a foster carer had done the
13 following.

14 Firstly, struck a child, and in that event the child
15 was removed and the foster carer de-registered.

16 Secondly, acted inappropriately in a sexualised
17 manner towards a child who was no longer in their care,
18 and that foster carer was de-registered.

19 Thirdly, struck a child, but following investigation
20 the incident was viewed as a lack of appropriate control
21 in dealing with -- I think it says "consistent abuse",
22 but I suspect that's a typo and you mean "persistent
23 verbal abuse", and guidance was issued and the placement
24 continued and it was satisfactory and no further
25 placements were made.

1 But I think you accept you can't answer for the
2 majority of the period due to scant predecessor records.

3 Over the page, at page 36, you state in relation to
4 acknowledgement of systemic failures, I think what
5 you're telling us is there's no evidence that systems
6 failed, but you do make certain points.

7 You accept that the systems now in place are
8 significantly more robust than they would have been
9 before. That you can't give a definitive answer for the
10 majority of the period due to scant predecessor records.
11 And there are two instances, which -- on reflection with
12 the benefit of hindsight -- a referral could have been
13 made to the police and was not.

14 You also make the point that with the small number
15 of placements in the Western Isles, it may be that the
16 systems have not been tested to any great extent.

17 A. Mm-hmm.

18 Q. By the time you take on board all those qualifications,
19 are you quite sure of your position that there was no
20 systemic failure?

21 A. Am I quite sure? (Pause)

22 I think I am quite sure. I believe I am. There
23 were human failings, admittedly, but I would not say
24 systemic failings.

25 Q. Is it not the purpose of a system to take account of the

1 likelihood of human failings?

2 A. Yes, I accept that our systems are -- well, systems are
3 made up of humans and they're made up of processes and
4 procedures. I suppose -- does scale come into it?
5 Because the numbers are, you know, so small. Does that
6 affect how we view something as systemic or not because
7 the numbers are relatively small?

8 LADY SMITH: I see that, Jack, but in two of those cases,
9 whatever happened was bad enough to de-register the
10 foster carers.

11 A. Admittedly, my Lady.

12 LADY SMITH: Whatever your systems, they didn't prevent the
13 two children in those cases being the victims of abuse.

14 A. I accept that, my Lady.

15 Can I -- in terms of systems, can I talk about,
16 I suppose, I'm here representing an island authority, so
17 can I talk about systems and islands, so to speak?

18 LADY SMITH: Please do.

19 A. In 2006 -- was it 2006? -- we introduced an independent
20 chair to our fostering and adoption panel.

21 LADY SMITH: Yes, you mentioned that in your response.

22 A. So that was in my time, and I think that was I suppose
23 one of many important decisions we took over a number of
24 years.

25 I believe in -- it's such a complex business. When

1 you're dealing with people, it is -- you're complex
2 yourself as an assessor, say, and who you're assessing
3 is equally if not more complex than you are, and then
4 you have that dynamic, that relationship, which has
5 complexities itself. And when you're talking about
6 people and relationships, you always have to accept that
7 you -- despite best efforts, you could be wrong. You
8 could be wrong.

9 I've always taken this approach myself. I've
10 always -- that it is good to critically reflect on why
11 you've arrived at your decisions. It's also good to
12 critically reflect on would someone who has greater
13 experience than yourself, even better, is not part of
14 your own authority in some of these situations. I think
15 bringing the British Association for Fostering and
16 Adoption to the Western Isles, not just to help chair
17 the panels, they brought a wealth of experience. They
18 trained people.

19 I can remember we had a particular event where we
20 discussed -- not just for panel members but for social
21 work staff -- a significant case review from south of
22 the border, where a child was fatally harmed in a foster
23 placement, where very much the message there was bring
24 with you a -- see the good in people and see the
25 positivity, but bring with you a healthy degree of

1 scepticism as well. You know, test out everything that
2 you've been told.

3 I suppose relating that to our own service when
4 there was one foster care -- one -- one fostering social
5 worker within the service, I suppose it was a bit
6 more -- and with no British Association for Fostering
7 and Adoption either, to bounce off your ideas, your
8 concerns, you come back from a visit and your intuition
9 is telling you something or -- we had a service that
10 consisted of one person covering an island chain, and
11 we've talked about the geography earlier on. It would
12 have been very difficult to run a service with one
13 social worker covering the area we're talking about and
14 to do it in -- certainly to an extent that would satisfy
15 ourselves today in terms of what is good enough.

16 LADY SMITH: Thank you.

17 MS RATTRAY: Jack, there is one other matter I want to ask
18 you about, and that is in Part D.

19 In Part D you provide us with information about the
20 details of allegations made and so forth, but I want to
21 ask you about one particular case, and it's what you
22 refer to as case 5, which is at page 91 of
23 WIC-000000004, the current document.

24 The details of case 5 are set out at the bottom of
25 page 91 and over to the top of page 92. Just briefly,

1 essentially there was a complaint in 2003 of sexualised
2 behaviour by a male foster carer towards a female foster
3 child.

4 Then another similar complaint was made by a second
5 female child in 2004.

6 The first complaint was dealt with what's referred
7 to as an informal route. There were no child protection
8 processes used and no report to the police.

9 However, with the second complaint, that was dealt
10 with formally, reported to the police, child protection
11 procedures used, but the Crown dropped the case.

12 The foster care placements were suspended at the
13 time of the complaint and the foster carer was
14 de-registered. I think this is one of the --

15 LADY SMITH: One of the group of three earlier on.

16 MS RATTRAY: -- group of three where you found on the
17 balance of probabilities that abuse had taken place.

18 A. (Witness nodded)

19 Q. This informal route, is that not a problem in a system
20 where a child is reporting something but child
21 protection processes are not used and this informal
22 means to try and resolve a problem is used instead?
23 Would that not be a systemic failing?

24 A. I myself am challenged by the term "informal".

25 When you're talking about any child, but

1 looked-after children, and where there's an allegation
2 of abuse, there should be absolutely no informality in
3 terms of how that is responded to. Absolutely no
4 informality.

5 If it's a single -- you can have a formal
6 single-agency response to look at -- now, I think this
7 should have been more than a single-agency response, but
8 I'm making a point here. Even if it is a single-agency
9 response by social work, that's formal, it's not
10 informal. Nothing should ever be informal when it comes
11 to protecting the most vulnerable in a community, and
12 that is my own professional view. So I'm challenged by
13 that, the language that was used in the file, I really
14 am. I'm challenged by that.

15 Is it systemic? I sit here not knowing why that
16 decision -- well, was taken. It wasn't the right
17 decision to take. Today, for example, that would
18 clearly be discussed in an initial referral discussion
19 with the police. Now, I don't know which direction it
20 would have gone in -- or thinking about this earlier
21 actually, so much depends on responses, responses being
22 appropriate and responses being proportionate. And if
23 you have confidence that a response would be appropriate
24 and proportionate, you're more likely to do something as
25 a result of that. If you lack confidence that there'll

1 be an appropriate or proportionate response to it, you
2 might think twice.

3 I'm not saying that's what happened here. I don't
4 know, I wasn't there.

5 A second explanation may be -- and I'm really second
6 guessing here, I really am, is that -- and it goes back
7 to a point I made earlier on that we've never really
8 been in a position where we've had an excess of carers,
9 where we've been able to sit down and truly match
10 a child's needs to what a carer can offer. It's almost
11 always been we've got just -- we've got as many children
12 needing placements as we do placements, and you're
13 grateful for the placements you have, and --

14 LADY SMITH: What had happened in that case, Jack, was in
15 the 2003 occasion, which was on the previous page,
16 something had happened that really should have had alarm
17 bells ringing --

18 A. (Witness nodded)

19 LADY SMITH: -- and because the child was no longer in the
20 placement and this was the first time there'd been
21 a problem with this foster carer, this informal route
22 was taken and nothing was done, and yet by 2004, very
23 similar behaviour occurred again. And that time, when
24 it was reported, it was considered serious enough to
25 take forward possibly for prosecution.

1 A. (Witness nodded)

2 LADY SMITH: It's quite a stark contrast.

3 It's difficult, isn't it, to avoid concluding that

4 there was at least a strong possibility that the man

5 would have been de-registered first time around, and

6 then the second occasion would never have happened.

7 A. I accept that, my Lady. I do accept it and that has

8 crossed my own mind.

9 LADY SMITH: Yes.

10 Ms Rattray.

11 MS RATTRAY: Yes, my Lady.

12 Well, Jack, that concludes my questions for today

13 and leads me to thank you very much for your assistance.

14 A. Thank you.

15 LADY SMITH: Jack, I have no other questions for you.

16 It just remains for me to thank you so much for

17 coming here to Edinburgh to advance our understanding

18 and learning quite considerably, particularly in

19 relation to the work of an islands council. Let me

20 assure you I do recognise that the challenges are

21 different and quite difficult in many respects in

22 addressing what you have to do. Do keep thinking.

23 Thank you for sharing the thoughts that you have done

24 today, and I wish you well in the continuation of your

25 work in the Western Isles.

1 A. Thank you, my Lady.

2 Can I thank the wider Inquiry team as well, and

3 I think this is one of the best things, if not the best

4 thing, that's happened to my profession in many, many

5 years, and I look forward to -- I look forward to the

6 outcome, but I look forward to care-experienced young

7 people reaping the rewards of this Inquiry. Thank you.

8 LADY SMITH: I'm very grateful to you for that. Thank you.

9 (The witness withdrew)

10 LADY SMITH: We'll stop now for the lunch break, Ms Rattray,

11 and I'll sit again at 2 o'clock.

12 Thank you.

13 (1.05 pm)

14 (The luncheon adjournment)

15 (2.00 pm)

16 LADY SMITH: Good afternoon.

17 Now we're off to Argyll and Bute, I think. Is that

18 right?

19 A. We are. David Gibson, Chief Social Worker, is here.

20 LADY SMITH: Thank you.

21 Mr David Gibson (affirmed)

22 LADY SMITH: The first question I have for you is I hope

23 an easy one. How would you like me to address you? I'm

24 happy with Mr Gibson or David, whatever works for you.

25 A. David's absolutely fine.

1 LADY SMITH: David, thank you for that.

2 I see you've brought your own notes --

3 A. Yeah, just one or two.

4 LADY SMITH: If you need them, that's fine, you can consult

5 them. You have also been provided a hard copy of your

6 Council's response to us and you'll see the pages we're

7 referring to coming up on screen as we do so.

8 If you have any questions or concerns at any time,

9 please let me know. I want to do anything I can to ease

10 the difficulties of giving evidence. I know however

11 often you may have done something like this or indeed

12 exactly this before, it's never the easiest challenge.

13 So let me know if you have any problems.

14 If you're still giving evidence around 3 o'clock,

15 I'll take a break around then if that works for you, so

16 that we can all have a breather.

17 If you have no questions at the moment, I'll hand

18 over to Ms Innes and she'll take it from there. Is that

19 all right?

20 A. Thank you.

21 LADY SMITH: Thank you.

22 Ms Innes.

23 Questions from Ms Innes

24 MS INNES: Thank you, my Lady.

25 David, you provided an outline of your career

1 history and qualifications to the Inquiry. We
2 understand that you are currently Chief Social Worker
3 with Argyll and Bute?
4 A. That's correct.
5 Q. You qualified -- I think you have a degree in psychology
6 and then you did a postgraduate qualification in social
7 work?
8 A. That's correct.
9 Q. When did you achieve that?
10 A. 1989.
11 Q. Then we can see that you initially worked as
12 a residential childcare officer in a number of
13 children's units in Lothian and Edinburgh?
14 A. That's correct.
15 Q. And then you worked for a couple of years for a company?
16 A. That's correct.
17 Q. Then in 2000, you went back to work as a social work at
18 East Lothian Council this time?
19 A. Correct.
20 Q. Then you spent five years as a residential manager and
21 then head of care for Harmeny Education Trust?
22 A. Correct.
23 Q. In 2017, you became head of children's services and
24 Chief Social Work Officer in the Western Isles?
25 A. Yes.

1 Q. In 2021 you moved to your current role. When was it
2 that you moved?

3 A. September 2021.

4 Q. As well as being CSWO, we understand that you're head of
5 children, families and justice in Argyll and Bute?

6 A. That's correct.

7 Q. When the Inquiry served its section 21 notice in respect
8 of this case study, my understanding from your CV is
9 that you were in the Western Isles and not at Argyll and
10 Bute?

11 A. That's absolutely correct.

12 Q. I take it that you had oversight of and perhaps were
13 involved in the completion of the Western Isles
14 response?

15 A. Yes.

16 LADY SMITH: You'll appreciate you come hot on the heels of
17 us having been looking at that very response and
18 listening to evidence about the provision of foster care
19 in the Western Isles.

20 A. Yes, absolutely.

21 LADY SMITH: Thank you.

22 MS INNES: As I say, we appreciate that you weren't involved
23 in Argyll and Bute's response itself, but I take it that
24 you've familiarised yourself with it since being advised
25 that you were going to be coming to give evidence?

1 A. Absolutely.

2 Q. Can I ask you, please, first of all, to look at
3 ABC-000000027 and page 1. At (a) we can see that
4 there's a reference to predecessors. We understand that
5 between 1975 and 1996 Argyll and Bute formed part of
6 Strathclyde Regional Council.

7 A. (Witness nodded)

8 Q. Prior to then, this says that the predecessor was
9 Argyllshire County Council. Is the position as simple
10 as that?

11 A. No. It's not as simple as that.

12 The vast bulk of the geographic area was Argyllshire
13 County Council, and I hasten to add I'm not an expert on
14 this, so to the best of my knowledge, we also had
15 Buteshire, which the island of Bute was one part of.
16 I believe Arran and Cumbrae were the other parts of
17 Buteshire, which now obviously is part of North
18 Ayrshire, and a sliver of our eastern county now was
19 part of Dunbartonshire, so the Helensburgh area,
20 I wouldn't like to say exactly where that started and
21 stopped, but there was a small part, however the vast
22 bulk of our area was Argyllshire.

23 Q. Are you aware if that presented some challenges for the
24 archivist or researcher, I don't know what person
25 carried out the work to respond to the section 21

1 notice, but did that pose some challenges particularly
2 in relation to this period?

3 A. Yes. Without a doubt, it was Live Argyll who do all our
4 archive work and the vast majority of that will be
5 Argyllshire. We have got odd documents from Buteshire
6 and, to the best of my knowledge, we've not really had
7 anything from that eastern section that may have been
8 part of Dunbartonshire. However, Argyllshire will cover
9 the vast majority of the area and the vast bulk of the
10 population.

11 Q. We'll come on to look at your case file review
12 separately, but have you recently identified any other
13 issues with children's files and what might have
14 happened to them?

15 A. Recently we have been doing some further work, so doing
16 the section 21 hasn't been the stop of it, and we
17 certainly found some documentation from Argyllshire and
18 also from Buteshire which talked about the destruction
19 of various files, not just children's files, not just
20 social work files, and certainly this was from 1970,
21 from memory, and it talked about disposing of children's
22 files as them having no -- and I'm happy to get the
23 exact quote, but effectively boils down to having no
24 administrative worth at that stage. So that would have
25 been approximately 1970 for both Argyllshire and

1 Buteshire.

2 LADY SMITH: So that's nobody giving thought to they maybe
3 being worth an awful lot to the children concerned.

4 A. I wouldn't disagree with what you're saying.

5 LADY SMITH: Do you know whether this -- I hesitate to use
6 the word "nightmare", but I suppose it must sometimes
7 feel like that -- over tracking the records through
8 these periods when Scottish local government kept
9 getting reorganised, affects other departments as well?

10 A. I would guess so, but I don't know of that for sure.
11 Argyll and Bute, I think, has got a particularly
12 complicated arrangement, and it's complicated just now
13 as well. If I was to take health, our main services
14 come from Greater Glasgow and Clyde, but we're part of
15 NHS Highland, for example. So it is a complicated
16 authority. And in many ways it's Scotland in miniature,
17 we've got the relatively urban through to the most
18 rural, the most remote and we have more islands than any
19 other authority in Scotland as well.

20 LADY SMITH: Is it not said that you're the second-largest
21 authority physically?

22 A. We're the second-largest after Highland, and bear in
23 mind Highland is the size of Belgium.

24 LADY SMITH: Indeed, but your population is under 100,000.
25 Is that right?

1 A. I believe it's about 87,000 or so.

2 LADY SMITH: Thank you.

3 MS INNES: You just mentioned that even although you have
4 the mainland area, you also have more islands than any
5 other island authority.

6 A. We have 23 inhabited islands.

7 Q. Just staying with that issue at the moment, what
8 challenges does that give rise to in relation to the
9 provision of fostering?

10 A. The provision of fostering, like all other aspects,
11 we've got the challenge of geography and of demography.
12 It can be a real challenge to recruit into any job,
13 particularly in the western side of Argyll. Everything
14 from the Rest and be Thankful onwards. That's
15 undoubtedly the case. It's the same with fostering.

16 If we have foster carers in our most remote areas,
17 it's not just a case of popping down the road for 20
18 minutes in a car to see how things are going. We're
19 supporting them over vast distances.

20 Ironically, the pandemic and the use of Teams and
21 within health what they call Near Me, these have all
22 I think helped to a degree and much as it's become the
23 norm for everybody, rather than just in our most remote
24 and island areas.

25 There's equally issues of housing -- I could go into

1 a whole political challenge that we have. Of course,
2 a lot of these challenges have been recognised in law
3 now through the Islands Act and the need for island
4 communities impact assessments when we're doing major
5 changes to policy and procedure, both at national and at
6 a local level.

7 I could go on for -- ask me and I'm more than happy
8 to answer, but I could go on for quite a time on that
9 particular area.

10 Q. You mentioned demographics --

11 A. Mm-hmm.

12 Q. -- what are the demographics that affect fostering?

13 A. It would be to do with recruitment. I think one thing
14 that's interesting from the times of the regions, and my
15 experience was mainly in Lothian, as you pointed to
16 earlier on, but I'm sure Strathclyde was the same.
17 Often the pockets -- the concentration of foster carers
18 was outside the city, and clearly Strathclyde, the main
19 central city was Glasgow. Yet a lot of the foster
20 carers would be some distance away, and we see that with
21 some of the cases that are highlighted today.

22 That creates issues of contact, it creates issues of
23 keeping youngsters in touch, it creates issues of
24 culture. And going by my experience in the Western
25 Isles, it can create issues of religion, issues of

1 language as well.

2 I think another one would be that we often talk
3 about children being cared for in their home
4 communities. Actually, often we're talking about
5 children being cared for within the boundaries of the
6 Local Authority and if you look at the size of Argyll,
7 a child, if I use it as an example, a child who was from
8 Tiree and was fostered in Helensburgh, is not in their
9 home community, although we might claim they're within
10 the Local Authority area, and vice versa.

11 If an urban child were to be fostered on one of the
12 Islands, that can come as quite a shock. I say that as
13 somebody living on an island. It's not for everybody.

14 So all of those factors and many others, I'm sure,
15 I'm not going to touch on during this brief period, all
16 add to that. And again when, as I'm sure you will when
17 we look at some of the case, we will see some of the
18 children from urban areas have been cared for in quite
19 remote and certainly rural areas, and we've got to
20 consider what that means.

21 Practicality can come into it. Distances involved.
22 So if we had a child in one of our more distant western
23 areas was needing to come into foster care in
24 an emergency and the only placement we had is in
25 Helensburgh, you would be talking about transporting

1 a traumatised child over many, many miles.

2 If we go to the example of children from the
3 islands, there is only two ways off an island, sometimes
4 only one, one is by CalMac or Loganair and the other one
5 is by Loganair. So if a child's coming in on
6 an emergency basis because something traumatic happened,
7 many people will know why they're leaving. Most often,
8 everybody will have an opinion about why they're
9 leaving. And equally if -- we've come across it with
10 domestic abuse and other things. If a perpetrator
11 wanted to find out where they were, the ferry timetable
12 and Loganair timetable dictate the only few ways to
13 leave.

14 So those are particular challenges on our island
15 communities as well as our most remote.

16 Q. Thank you.

17 You mentioned there the period of Strathclyde and
18 obviously Strathclyde included both the City of Glasgow
19 and Argyll and Bute. Are you aware from cases that
20 you've come across in the course of researches that
21 children were moved from Glasgow City out to Argyll and
22 Bute to be fostered?

23 A. Yes. Yes, I think that's clear in just the cases we've
24 put on the -- in Part D. And I can only presume that
25 that happened many, many other times. I know it will

1 have happened many, many other times.

2 Q. We've heard evidence from Professor Abrams about
3 research that she undertook in relation to children
4 being boarded out specifically to Tiree, which you
5 mentioned.

6 A. Mm-hmm.

7 Q. Are you aware of that as a historical issue?

8 A. We are aware through one or two minutes of Tiree in
9 particular. I did read, and I wish I could put my
10 finger exactly where it was, where members of the local
11 community were complaining that actually the boarded-out
12 children were outnumbering the local children in some of
13 the local schools -- bear in mind these were tiny
14 schools, so three, four, five, it could have been that
15 number.

16 However, I think it would be fair to say that often
17 the authorities -- so it would have been the
18 Argyllshires and predecessor authorities for Western
19 Isles and others -- weren't always aware of these young
20 people coming in. I don't know enough about it to talk
21 categorically, but I am aware that those were issues.
22 Some of that back in the mists of times, I'm talking
23 about the 1950s and 1960s, perhaps.

24 Q. Thank you.

25 Just in terms of how you organise the distribution

1 of your staff in fostering services, to pick up on what
2 you mentioned about distances and suchlike, how many
3 staff do you have working in the fostering service?

4 A. You're -- I -- have we written that down in one of the
5 returns? We have our own fostering service. It's
6 small. It's about a half a dozen, if it's five I'm
7 going to apologise.

8 Q. I think if we go to page 17 perhaps. We might not be in
9 the right document. Just bear with me a moment.

10 (Pause)

11 Yes. Page 17 at (a) under 96:

12 "How many people were employed by the Local
13 Authority who had some responsibility for foster care
14 services for children?"

15 It says:

16 "This number has been variable over the years but
17 currently there are six members of the Family Placement
18 Team and one practice lead."

19 Where are these staff based? Are they scattered
20 throughout Argyll and Bute?

21 A. Scattered. Necessarily scattered. No matter how far we
22 scatter them, there will always be big distances to
23 travel.

24 I'm delighted I got the number right, I'd have to
25 add.

1 And we're currently in the process of expanding that
2 team to -- if I can expand ever so slightly, we are
3 aware of the issue of kinship, so if there's one bit of
4 learning not triggered solely by these proceedings but
5 these have been part of it, we are aware we don't want
6 to repeat some of the -- we don't want to relearn things
7 we already know about fostering for kinship as that
8 becomes more and more formal, so we have expanded that
9 team, we're expanding that team right now, so that all
10 the kinship assessments will be done by the fostering
11 team now rather than done by the practice team who are
12 also the children's social workers. So we're seeing
13 that division as being a right and proper way forward,
14 so that's about to expand.

15 Q. Are the staff assigned to different areas of Argyll and
16 Bute?

17 A. We will do. We have four areas which we often talk
18 about, so we have: Oban, Lorn and the Isles, which is
19 a kind of an open area, Mull, Tiree, Coll; we have what
20 they call MAKI, which is Mid Argyll, Kintyre and Islay,
21 which is Lochgilphead, down Kintyre, including Islay and
22 Jura and Gigha; and we have Helensburgh and Lomond,
23 which I think is relatively self-explanatory; and Cowal
24 and Bute, which is --

25 LADY SMITH: Sorry, just running through these again.

1 A. Okay.

2 LADY SMITH: You group Mull -- where else with Mull do you
3 group?

4 A. Mull would be in with -- so that's Oban, Lorn and the
5 Isles.

6 LADY SMITH: Oban, Lorn and the Isles.

7 A. So the Islands are around Oban, Mull and outwards.
8 Mid Argyle, Kintyre and Islay are the other islands
9 which are slightly more to the south, along with
10 Lochgilphead down to Campbeltown.

11 LADY SMITH: And then Helensburgh?

12 A. Helensburgh and Lomond, which is basically Helensburgh
13 and the areas strictly around Helensburgh.

14 Then we have Cowal and Bute, which is Dunoon and
15 Bute.

16 LADY SMITH: Thank you.

17 A. We often will talk about east and west, though, which
18 would have been the Oban and Mid Argyll together, and
19 then the others would be seen as east. You might say
20 the Rest and be Thankful is the middle of that.

21 LADY SMITH: It's all an opinion, given the amount of
22 coastline, but all of them are bordering.

23 A. We have commented that no matter how we organise it, it
24 will always be slightly wrong.

25 LADY SMITH: I get the idea. Thank you.

1 MS INNES: If we can look, please, at numbers of children in
2 foster care, and if we can go to page 12 of this
3 document, please. I think if we go to the bottom of the
4 page to question (e), this is asking about how many
5 children in total were accommodated by the Local
6 Authority, whether in foster care or otherwise.

7 There there's some numbers for some dates, so I'm
8 assuming that was all that the archivist was able to
9 find?

10 A. That would be correct.

11 Q. September 1958, for example, 96 children in care, 55
12 boarded out.

13 1957, 93 in care, 61 boarded out.

14 1961, 73 in care, 38 boarded out.

15 March 1967, 72 in care and 36 boarded out.

16 Then in terms of information for the Strathclyde
17 period, just to cover that off, my understanding is that
18 Argyll and Bute received material from the Glasgow City
19 archive and that was put into their response? Is that
20 correct?

21 A. I'm not sure.

22 Q. It's just it keeps referring to Glasgow City archive
23 haven't provided this or this is information that the
24 archivist has provided. Okay. But you're not sure
25 what --

1 A. I couldn't -- I can find out, but I can't comment at
2 this moment.

3 Q. If we move on to 1996 to 2014, in terms of numbers of
4 children it says:

5 "Numbers of looked-after and accommodated children
6 in Argyll and Bute fluctuates and has been steadily
7 decreasing. For example, in 2010 there were between 140
8 and 155 at any time, and by 2014 this had dropped to
9 between 110 and 120 at any one time."

10 That's a total number of children in care.

11 If we look at the top of this page, please, so the
12 first question at (a) and under 96, there it says:

13 "The number of children in foster care has
14 fluctuated. Currently we have 33 fostering households
15 offering up to 45 placements."

16 If the number of children in care is still round
17 about 110 to 120, only 45 of them are in foster care.

18 In what type of care are the other children?

19 A. Yes, again we're probably seeing that movement away from
20 using residential care quite as much. We talk about
21 trying to move the balance of care, so it goes back to
22 what we were saying about children have been cared for
23 many miles from home and the various reports, I've
24 talked about that. We are trying to have more nearer
25 home, and to use the example of the Promise having more

1 scaffolding around keeping youngsters genuinely in their
2 home communities, not just in their own Local Authority.

3 However, the other forms of care, to answer your
4 question, would be our own residential units, where we
5 have 18 places.

6 We have youngsters, for various reasons, in various
7 types of external placements, external to Argyll and
8 Bute.

9 And the rest would be in formal kinship care. So
10 we're probably talking 30-ish in residential, and that
11 can fluctuate on a day-to-day basis, and the remainder
12 being formal kinship care.

13 Formal kinship care is undoubtedly the growing area
14 and one that we would see is appropriately where we want
15 to go as well.

16 LADY SMITH: Can I just check. Did you say "in informal
17 kinship care" --

18 A. Formal.

19 LADY SMITH: Or "in formal kinship care"?

20 A. In formal.

21 LADY SMITH: You're paying an allowance?

22 A. They're in formal kinship care is what they are in, to
23 try and put it differently.

24 LADY SMITH: Thank you very much.

25 MS INNES: You've also mentioned people in placements

1 external to Argyll and Bute.

2 A. Yes.

3 Q. Do you mean outwith the Local Authority boundaries or do
4 you mean within the Local Authority boundaries but
5 provided by another organisation?

6 A. No, we mean outside the Local Authority boundary. And
7 to the best of my knowledge, that is 100 per cent in
8 specialist residential settings of one kind or another.

9 Q. Okay. Right. Can I ask you, please, to look briefly at
10 Part C of the response. This is at ABC-000000028.
11 You'll be aware that this section asks for information
12 about policy in certain areas, and then has that been
13 adhered to in practice.

14 A. Mm-hmm.

15 Q. If we can look on, please, for example, to page 2, the
16 question there is about Local Authority policy and the
17 Local Authority have, in Part A, for example, at 1996,
18 say that they initially adopted SRC policy, so
19 Strathclyde Regional Council policy, and procedures and
20 replaced that with Argyll and Bute operational
21 procedures manual in 2000, and those were amended and
22 updated and updated again, I think, in 2010. And
23 I think the response refers to these various procedures.

24 But then if we go on to page 8, under the "Practice"
25 heading at the bottom of the page, the (a) under 1996,

1 the question is:

2 "Did the Local Authority adhere in practice to its
3 policy and procedures in relation to provision of foster
4 care in 1996 and onwards?"

5 It says: we've not identified any evidence of
6 non-compliance.

7 Then that answer is repeated throughout.

8 A. Mm-hmm.

9 Q. Do you know what steps the Local Authority took to
10 enable it to measure adherence or assess adherence in
11 practice to its policies?

12 A. Sure. I think the answer to that question is
13 specifically related to what we have discovered during
14 the section 21 process and the investigations we took
15 there. So even in the cases which are in Part D, it
16 appears, from what we can see, that the guidance at the
17 time was followed in terms of child protection, in terms
18 of recruitment and so on.

19 Now we would certainly be doing case audits and so
20 on through child protection committee, which is
21 obviously multi-agency, so it's not just the social work
22 services. That is something we do routinely and will
23 continue to do through that process.

24 We also would be looking at data and burrowing down
25 into the data and saying how come we've had an increase

1 or decrease and the likes.

2 So that is what would be done today. I really can't
3 comment on what was done in 1996, if I'm honest.

4 However, what we have done is through -- we don't see
5 any noncompliance from what we've done looking through
6 these particular cases at the present time.

7 Q. Okay, thank you.

8 If we can go on to look at your case file review and
9 if we can look at ABC-000000025, page 5. In the bottom
10 half of the page there's a question:

11 "Please could you explain the case file review
12 methodology employed in preparing the A-D response."

13 Here the Inquiry is asking for information about
14 this. It's noted in answer:

15 "Different methodology was used for the different
16 time periods due to the way information was recorded
17 during the relevant periods by the relevant authority
18 and therefore the response is split in three ways."

19 For the period 1930 to 1975, in the bullet points at
20 the bottom of the page we see that the archivist was
21 unable to identify any case records for children
22 fostered or boarded out over that period, 1930 to 1975.

23 A. Yes.

24 Q. Then the final bullet point:

25 "For the period 1930 to 1950, the archive service

1 advised that they were unable to identify any other
2 records in relation to children fostered or boarded out,
3 or of their foster carers."

4 This is obviously information that was given to you
5 by the archivist following the searches that they
6 carried out?

7 A. That's correct.

8 Q. The explanation for that might lie in the information
9 that you've recently found about destruction of files?

10 A. That's definitely possibly the case.

11 I would say we've got quite a relatively amount of
12 rich amount of information from the Children's Committee
13 minutes. Now, a lot of that is very brief, it's
14 a paragraph when there's been visits taken, and I know
15 you've got some of that evidence with you. So the
16 information we were able to get between 1950 and 1975
17 relies very heavily on those minutes. Why there's no
18 minutes prior to 1950, I couldn't comment. I don't
19 know.

20 Q. Then if we look over the page onto page 6, at the top of
21 the page we see reference to what you've just said about
22 issues with earlier minutes and the brevity of notes in
23 minutes.

24 Then for the period 1975 to 1996, it says:

25 "Argyll and Bute Council do not hold records in

1 respect of foster carers, foster care services or
2 children in foster care for the period 1975 to 1996."

3 The final bullet point says:

4 "The information provided by the Glasgow City
5 archive was used to complete the response for all
6 sections for the period 1975 to 1996."

7 A. That's correct.

8 Q. That might have been where I was getting the idea that
9 I had that this had come from the archivist?

10 A. Anything we have between 1975 and 1996 has come from
11 Glasgow City archive. There are odd files which were
12 taken on by Argyll and Bute because they were live in
13 1996, which have some information for pre-1996, but
14 those would only be ones who were active cases as the
15 change over of local government happened.

16 Q. Then for the period from 1996 there's a note of what
17 records were reviewed, and all foster carer files were
18 reviewed.

19 A. I believe so, yes.

20 Q. In the next bullet point it says that that included
21 reading both the archive records of all foster carers
22 approved by Argyll and Bute during the period from 1996,
23 and the records of all current foster carers to identify
24 allegations or complaints.

25 A. I believe that's the case, yes.

1 Q. Then it says children's records were then reviewed where
2 additional information was required to enable the
3 response to be completed.

4 A. Yes.

5 Q. Do you know, were those children's records that were
6 identified from the reading of the foster care carer
7 file?

8 A. I believe that was the case.

9 And the other interesting point to bring in here,
10 because certainly I've reviewed a couple of the files in
11 preparation for today, in 1996, sometimes the children's
12 file and the foster carer's file felt like they were
13 merging into one, so I was reading the foster carer's
14 file but it was review minutes of the children that were
15 in the foster carer's file. That would be different
16 now, where each child would have their own and it would
17 be much more -- it would be much clearer about what
18 information was where. So there was a kind of merging
19 of what was going on in that mid-1990s period, which has
20 evolved and I would say is now better.

21 Q. Then you say that all minutes of fostering panels for
22 the period from 1996 were read to assist in identifying
23 carers, and it then goes on to say that the panel
24 minutes would also include information, for example,
25 about foster carers that withdrew --

1 A. Yes.

2 Q. -- complaints or allegations and obviously
3 de-registrations as well.

4 A. Yes. That should be the case.

5 Q. Okay. One of the further questions that was asked by
6 the Inquiry is at page 8 of this document. It's at the
7 bottom of the page. This refers to it being a matter of
8 public record that a boarded-out Argyllshire boy went
9 missing in 1955, and whose remains were found a year
10 later in Glen Masson. And then there's reference to
11 sources where material in relation to that was found.

12 Just for the record, Professor Levitt gave evidence
13 to the Inquiry on Day 24 and mentioned this case, it
14 having been led to questions which were raised in
15 Parliament, which I think you reference in your
16 response.

17 A. Mm-hmm.

18 Q. In the transcript for that day, his evidence is found at
19 pages 76 to 79.

20 So following this matter being raised with you by
21 the Inquiry, I understand that you instructed some
22 further searches to be made in relation to this case,
23 which is a case of Dugald Johnstone.

24 A. Yes.

25 Q. Initially you hadn't included it in your response

1 because, as you say here, there was no indication in the
2 minutes of the Children's Committee or the reports of
3 the children's officer that his going missing in 1955 or
4 his subsequent death were related to abuse by his foster
5 carer.

6 A. Yes.

7 Q. But, as I say, you did find some material in relation to
8 it and I wonder if we can go on to the next page,
9 please. In the records that you found at the end of the
10 first paragraph, you note that the records that you
11 found were in a child's file?

12 A. Yes, when Live Argyll had done the general search
13 originally for the general section 21, they'd been
14 looking for children's files, they'd been looking for
15 Children's Committee minutes and the Children's
16 Committee minutes didn't necessarily connect the two.
17 However, when they did a further certain, a deeper
18 search perhaps, what they did find was a file that had
19 been kept of everything from press clippings to typed
20 copies of what was said in Hansard, and there was
21 a children's officer report within that. So it appears
22 to have been kept because there was a death and a lot of
23 publicity, rather than it being a child's file as such.
24 It was a file about a child but it wasn't a child's
25 file, if you can understand the nuance in that.

1 Q. You say that your understanding from the material is
2 that Dugald's disappearance and death was fully
3 investigated at the time by the Procurator Fiscal, the
4 childcare inspector of the Scottish Home Department.
5 And that you understand there was no criticism made of
6 the actions of the County Council.

7 You referred to a response that was given by the
8 joint undersecretary of state for Scotland in response
9 to questions in the House of Commons on 22 April 1958,
10 in which he said:

11 "After careful consideration of all aspects of the
12 matter, I am quite certain that the action that was
13 taken by the County Council was in the best interests of
14 the children."

15 We'll come to what action was taken in a moment.

16 A. Sure. What you quote is what is in the record, I don't
17 know if I can add much to what you have said.

18 Q. Okay. Then you say in the next paragraph:

19 "There was indeed considerable media attention and
20 public concern at the time, both in connection with his
21 disappearance and the subsequent finding of his remains.
22 There are three particular episodes raised as concerns
23 at the time that could have been indicative of Dugald
24 having been abused."

25 These, I think, relate to some earlier placements.

1 A. Mm-hmm.

2 Q. There were three specific areas that you provide
3 information on.

4 First of all, you say that the first relates to his
5 removal from foster carers who were in the Isle of Mull
6 in 1950, and you provided us with a copy of the report
7 from the children's officer.

8 You say:

9 "There is no allegation that Dugald was abused,
10 although clearly concerns were identified about the
11 quality of care and in the view of the children's
12 officer he would do better elsewhere."

13 You say:

14 "These actions appear to have been a direct result
15 of implementing new requirements under the Children Act
16 1948."

17 I think that's a summary of what you took from the
18 report?

19 A. Yes. And having read the children's officer's report in
20 a bit more depth, it's clear -- there's comment about
21 changes from Poor Law to new legislation, but clearly
22 the children's officer was concerned about the level of
23 work that was being asked. There is comment about her
24 going and seeing that the children that were having to
25 dig the dung heap and equally at least two of the

1 children, two of the sibling group, had ringworm. So on
2 that basis she recommended taking them from that family
3 to another place, that the standard of care was not up
4 to scratch. And that was endorsed by the Children's
5 Committee and they were subsequently moved.

6 Q. If we can look, please, at this report, so
7 ABC-000000026. It might be slightly difficult to see on
8 the screen, but we'll try.

9 A. It's hard to read.

10 Q. So this is a report from the children's officer in 1950,
11 I think. In the second paragraph there's reference to
12 visits in October 1949, 10 January 1950 and April 1950.
13 She says:

14 "While I found everything was technically in order
15 under the boarding-out rules and regulations, yet the
16 children did not appear to be happy and were somewhat
17 restrained when I spoke to them. I took [I think one of
18 the children] out with me on two occasions and she
19 always referred to Mr and Mrs as him and her, and
20 I found out later that was how [I think other children]
21 referred to them also. This seemed strange to me after
22 living with the foster carers for three years."

23 She also appear to have been informed that the
24 children had a great deal of manual labour to do.

25 A. Yes.

1 Q. So she seemed to have concerns from the visits that
2 she'd carried out.

3 A. Yes.

4 Q. Then I think the next paragraph refers to the issues
5 that you've just mentioned. So on her visit on 18 April
6 she decided that the children would be better cared for
7 elsewhere. She refers to ringworm and the children
8 being off school, and the girl -- even although they
9 were off school, along with the girl, were working
10 filling a cart in the midden with manure. Their
11 clothing and person were by no means clean. That
12 morning, just prior to my visit, the doctor had been
13 called in."

14 So she obviously had very serious concerns.

15 A. Yes.

16 Q. She then goes on in the next paragraph to say that she
17 made enquiries from three reputable and responsible
18 persons in the district, one of them being the doctor,
19 who informed me that the children were not well looked
20 after and they had a great deal of work to do.

21 So she seems to have made some further enquiries and
22 then she reported back to the chair of the Children's
23 Committee, she says in the final paragraph that we can
24 see.

25 I think after that visit, if we look onto the next

1 page, and at the top of the page just above the
2 signature, she says:

3 "In the circumstances, I consider that I was fully
4 justified in removing the children. My first
5 responsibility as children's officer is to consider the
6 welfare of the children in the care of this County
7 Council."

8 That was her decision to remove the children,
9 including Dugald, to other foster carers?

10 A. Yes. And even looking back through the mists of time,
11 what she's describing is not like agricultural work, to
12 use a phrase that's around, that appears to have been
13 heavy agricultural work and under the circumstances the
14 children do appear to justify that move taking place.

15 I think where this is particularly interesting, if
16 you read the press coverage there is a wee bit in the
17 press coverage of painting this placement as almost
18 idyllic and that the Local Authority have removed them
19 from somewhere. Judging by what was written, the
20 decision appears appropriate. Through the mists of
21 time.

22 Q. Sorry, I want to go onto the next page but I'm having to
23 rotate the image and that seems to be a skill that has
24 deserted me at this precise moment.

25 A. Reading some of these electronically, I have resorted to

1 turning my laptop on its side to rotate.

2 LADY SMITH: You have my sympathy. (Pause)

3 MS INNES: There were further minutes that you were able to

4 find, and I think that these were the visit to the next

5 guardian.

6 A. This would have been the placement in Kintyre at this

7 point?

8 Q. Yes. Just before we look at it, were there concerns in

9 relation to this placement in Kintyre?

10 A. There were not, judging by what has been written.

11 There didn't appear to be concerns at first.

12 However, round about this period, and I don't have the

13 year exactly, but over the course of a couple of months,

14 Dugald did what we would call absconded or wandered off

15 as it was sometimes written on a couple of occasions and

16 it was the children's officer, Mrs McPhail from memory,

17 visited and it was there that she started to pick up

18 concerns.

19 Q. I think we see records of visits. There's a sentence

20 maybe about ten lines down from the heading

21 "Visitations", beginning, "Apart":

22 "Apart from being very dirty ..."

23 Then I can't read the next bit.

24 " ... and it was only then I observed two scars on

25 his head. I questioned him if ... phoned Dr Cameron and

1 asked him to see the child."

2 I think there's reference to:

3 "Did I feel something was wrong and the child was

4 admitted to hospital and there were concerns during the

5 time that he was in hospital."

6 LADY SMITH: "It was only when I saw him there that he took

7 me into his confidence."

8 MS INNES: Yes:

9 "And he told me he was terrified of his uncle."

10 Who I think was the foster carer.

11 LADY SMITH: Yes.

12 MS INNES: "I reported this."

13 Then I think it perhaps further down on this page

14 there is a report of him having been hit by his uncle

15 with something.

16 A. Yes. My understanding from reading through this is that

17 when the children's officer went to visit following the

18 absconsions, following the wandering off and being

19 missing for a couple of days, she actually was bathing

20 him herself, which is written there, and she noticed

21 a scar on his head, asked him what it was about, and at

22 that point he said he'd been hit by the male foster

23 carer, who he called uncle.

24 Again it seems the children's officer's done the

25 right thing. She's got medical attention and the matter

1 was also referred to the police at the time.

2 Q. Okay. Then over the next page there's then a report
3 I think from the medical superintendent of Argyll and
4 Bute Mental Hospital.

5 If we can just scroll up a little bit, so the second
6 paragraph here, this seemed to be a visit with the boy
7 and his foster parents. So perhaps before the incident
8 that we saw on the last page. It says:

9 "The main complaint is that the child has been
10 running away from home and on the last occasion acquired
11 considerable publicity as a result of staying away for
12 nearly four days, during which it became obvious that he
13 was eluding the searchers. The foster parents have
14 stated that they consider he is not normal and they feel
15 he should have psychiatric treatment."

16 Then they say:

17 "It is unfortunate that his previous history is so
18 vague."

19 There's reference about him being intellectually
20 subnormal. Then it says:

21 "The striking thing here is that there is no
22 previous history of abnormal behaviour, either on his
23 part or his brother's, until several months after they
24 had been with their present foster parents."

25 That's something that the superintendent brings out

1 in this report.

2 There's reference to him being off school, I think.

3 Then the next paragraph:

4 "The foster parents state that the child is very
5 quiet, reticent and uncommunicative and appears
6 backwards and sleepy. Their descriptions conflict
7 slightly."

8 Then there was some discussion, I think, with the
9 foster carers about whether they were chastising him.
10 At the end of this paragraph I think it says:

11 "There was a conflict of evidence. One parent
12 saying they rarely chastised the child and the other
13 saying that they did so frequently to begin with but not
14 after the first month. They say that they have to talk
15 to him frequently but described these talks as
16 reasoning."

17 That seems to have been a discussion that this
18 medical superintendent had with the foster parents.

19 A. Undoubtedly -- and we read this with the lens of
20 understanding trauma, as perhaps we do now, there are
21 quite a few concerning things within that.

22 Equally as well I think it might have been in the
23 children's officer's report, it does talk about physical
24 chastisement of smacking. Quite what that means, we
25 don't know with the passage of time. However, reading

1 that now, there are clear indications of concern.

2 Q. Yes. I think in the next paragraph, it might be quite
3 difficult to identify exactly where I'm reading from,
4 but about the middle of the paragraph under there's
5 a bit redacted:

6 "She often gave him rows, but he usually deserved
7 it. On the other hand, he was very frightened of his
8 uncle who he said gave him rows for little reason at all
9 and often spanked him and was nasty to him. He showed
10 me a scar on the frontal region of the scalp which he
11 said was caused about a month ago by his uncle striking
12 him with a wooden stob [I think] for some reason. He
13 also stated that on another occasion his uncle has
14 struck him with a stick. He appeared terrified of his
15 foster parent and plead that he should be taken away
16 from this home. He stated that his reason for running
17 away from home on at least three previous occasions was
18 the same, either that he had a row or feared that he was
19 going to have one."

20 Then it goes on from there. So obviously very
21 concerning material --

22 LADY SMITH: The striking was with a wooden stob, like
23 a stob in a wire fence?

24 A. We're assuming. Just for the record, I think you
25 suggested there this was written with the foster

1 carers -- I think this was written after the children's
2 officer had picked up there was a problem --
3 MS INNES: Okay.
4 A. -- and I think had taken them to the hospital, and
5 I think this is the report from post the children's
6 officer picking up the problem. So I don't think, in
7 terms of chronology, we knew about all of this. I think
8 what came up, we knew they knew about, and then this
9 came to light in the subsequent medical examination.
10 I think.
11 MS INNES: No, I think that you're -- that makes sense,
12 given what we've looked at.
13 That was obviously the second time of concern, and
14 I think if we go back to your ABC-000000025, the
15 addendum, which is easier to read, so ABC-000000025, and
16 page 9, at the bottom of this page. In the last couple
17 of paragraphs we can see the material that you've
18 referred to and you say that you were aware from the
19 material that you had that the allegations were referred
20 to the police --
21 A. Mm-hmm.
22 Q. -- and Dugald was removed from the foster carers to
23 a children's home near Dunoon.
24 Then in the final paragraph there we see:
25 "The third area of concerns related to Dugald's

1 disappearance a few weeks after moving from Tollard
2 House where he had lived for the preceding four years to
3 a group foster home with [a person] in Dunoon. While
4 the exact circumstances of why Dugald went missing and
5 how he died in 1955 can probably never be known, there
6 is no indication from the records available to [you]
7 that this was the result of abuse."

8 Although I think we can see that he's had a very
9 traumatic time in care.

10 A. Yes. I think again what we now know about trauma and
11 we're much more aware of this, he was -- the situation
12 he was in in Mull would perhaps be best described as
13 neglectful. Again you can talk about children working
14 in these kind of settings at that time.

15 The situation in Southend, Kintyre would appear to
16 have been abusive in one way or another.

17 However, I've seen no record of how he got on for
18 those four years. That's a gap, how he got on for those
19 four years, but it doesn't appear to have been remarked
20 in any of the records and there's no indication
21 whatsoever of there being any sort of incident, any sort
22 of concern in those few weeks he had with the final
23 foster carer. I think that was seen as being a positive
24 move and we'll never know the exact causation of that.

25 He's undoubtedly a child who was abused and he's

1 undoubtedly a child who quite clearly tragically died.
2 Can we put the two together? Possibly, but we're never
3 going to know definitively about that.

4 LADY SMITH: I suppose that moving him back into foster care
5 after four years out of foster care could have, for him,
6 felt like a disaster.

7 A. It could. It could. You know, I'm fully accepting of
8 that point. I think I read somewhere this was to allow
9 him to be nearer his school. As, you know, when we look
10 at the factors that would have dictated somebody moving
11 him, we make take a different view now than we did then.
12 But I fully accept the ideas being put forward. But we
13 will never know the exact causation.

14 And to this day, we don't know the exact cause of
15 death either. You know, that's there.

16 MS INNES: Thank you for providing that additional
17 information to the Inquiry in relation to this case.

18 I am going to move on to talk about your Parts B and
19 D, so now might be an appropriate time for a break,
20 my Lady.

21 LADY SMITH: If it suits you, David, we'll take a break now
22 and then come back and finish your evidence after that.

23 A. Thank you.

24 LADY SMITH: Thank you.

25 (3.00 pm)

1 (A short break)

2 (3.10 pm)

3 LADY SMITH: Are you ready for us to carry on, David?

4 A. Absolutely, thank you.

5 LADY SMITH: Thank you.

6 Ms Innes, when you're ready.

7 MS INNES: Thank you, my Lady.

8 Can we turn to Part D of your response, please, at
9 ABC-000000030. I think you can see there that that's
10 page 1 of the response, and, as you'll know, Part D asks
11 for the nature of abuse suffered.

12 If we go on to the next page at page 2 where we're
13 asking about extent, so:

14 "What is the Local Authority's assessment of the
15 scale and extent of abuse of children in foster care?"

16 At the time that you did this, you hadn't identified
17 any references to abuse of children in foster care and
18 with part of your addendum, that we've not looked at,
19 you added in the case of Dugald Johnstone?

20 A. Yes.

21 Q. In terms of the 1975 to 1996 period, it's quoted:

22 "We have not received any information to suggest
23 that there was systemic abuse. The records of specific
24 allegation or complaints will be individual client
25 records and specific information will enable a search of

1 relevant records."

2 This is the Strathclyde period. Am I right in
3 understanding that answer as essentially being: we don't
4 have any Strathclyde records, we've not looked at them?

5 A. I think if -- I said earlier on about the Strathclyde to
6 Argyll and Bute period. You know, we write it as 1996
7 as if it was a deadline. I think there was a merging of
8 practice and of records.

9 And certainly when I look at the list of complaints,
10 there's clearly in that list of complaints two, perhaps
11 three which are from the Strathclyde period, which would
12 make -- when I read it, that makes that particular
13 statement slightly inaccurate, I think. We do have two
14 or three -- I say two or three, because there's one
15 where there was a conviction in the Argyll and Bute time
16 but the abuse probably happened in the Strathclyde time.

17 Q. Okay, thank you for clarifying that.

18 Then you say from 1996 onwards:

19 "We have identified a number of complaints and
20 allegations which are detailed."

21 It's said:

22 "These appear to be isolated incidents and do not
23 indicate that there has been any extensive or widespread
24 abuse of children in foster care."

25 Does that remain the Local Authority's assessment?

1 A. I think if -- with absolute honesty, the period between
2 1930 and 1975, we don't have enough evidence to make
3 an assessment in any direction. We're much, much more
4 confident in the figures and the information we've given
5 you from 1996 onwards. There appears to be no
6 connection, it does appear to be isolated and we're
7 relatively confident from the information we have been
8 given with the numbers we have given you for 1996
9 onwards.

10 I'm probably deliberately leaving out 1975 to 1996.
11 It's somewhere between both of those.

12 Q. If we can move on, please, to page 9, where the Local
13 Authority sets out the complaints, the format means that
14 it's quite small.

15 A. Yes.

16 Q. I hope I'm right in identifying that you found 11
17 complaints.

18 A. Yes. That's what I counted. Plus Dugald Johnstone.

19 Q. Yes, so now 12 in total.

20 If we can look, please, at the bottom of page 9
21 against (d), and there's a question:

22 "Against whom was the complaint made?"

23 The first two, if we look along the row, are
24 David McIntosh, a Strathclyde foster carer, and then
25 a Stephen McNally.

1 A. Yes.

2 Q. Both complaints were of sexual abuse and were both
3 convicted in respect of sexual offences?

4 A. Yes.

5 Q. Can I ask you to look at some other documents in
6 relation to both of these people in turn.

7 First of all, could we look at JUS-000000096.

8 If we scroll up to the top of the page, we can see
9 here that this is in respect of David McIntosh,
10 an indictment with various charges.

11 If we just scroll down, please, there's one on the
12 first page and then we see charges two and three on the
13 next page. Both sexual offences again, and then
14 a fourth charge on page 3.

15 If we go on to page 4, I think we see a handwritten
16 note from the Sheriff Court at Paisley on
17 14 September 1998.

18 If we go to the bottom half of the page, please, we
19 can see reference to Mr McIntosh pleading guilty to
20 charge one under deletion of certain things. So, for
21 example, the first charge, I think, was originally 1989
22 to 1995 and after this deletion it would read 1991 to
23 1995, so that would be the period?

24 A. (Witness nodded)

25 Q. As you say, that was all in the Strathclyde period?

1 A. Yes. The conviction was in the Argyll and Bute period,
2 but the offences were in the Strathclyde period.

3 Q. Then there are some other deletions of the substance of
4 the charge.

5 Then I think towards the bottom of the page we see
6 that he pled not guilty in respect of charges two and
7 three, but then guilty to charge four under deletion of
8 again certain words.

9 If we go to the top of the next page, we can see the
10 remainder of the amendments to the charge, and those
11 pleas we can see were accepted, "I accept the foregoing
12 pleas".

13 LADY SMITH: Can we just summarise which charges he pled
14 guilty to and what the nature of the offences were in
15 each charge?

16 MS INNES: Yes, so if we can go back, please, to page 1, the
17 first charge was, as we can see, lewd and libidinous
18 practices.

19 LADY SMITH: Thank you.

20 MS INNES: The date was changed from 1989 to 1991, so the
21 period was reduced. There's reference there to that
22 being a child in foster care, "your foster daughter".

23 A. Yes.

24 Q. Then the fourth charge, which was in respect -- on
25 page 3, so two and three he pled not guilty to, and if

1 we go on to page 3, a further charge of lewd and
2 libidinous practices. And there's no reference there to
3 any relationship between the complainer --

4 LADY SMITH: But it's somebody born in 1986 and the offences
5 took place in 1991/1992, so five to six years old, it
6 looks like.

7 MS INNES: Yes.

8 A. Again, the presumption is it was a foster child.

9 Q. Okay. It is redacted, but there are two complainers in
10 respect of these charges.

11 That's the material that we have recovered from the
12 Justiciary Office in relation to these offences, and you
13 indicated that you'd found out some information about
14 this case yourself. Have you been able to review
15 relevant files in relation to this case to provide any
16 further information to the Inquiry?

17 A. I've been able to review the carer's file, which has
18 a degree of information within it.

19 In this particular instance, there was a -- there
20 were two accusations over time. One allegation came
21 first, and I think it was in 1993, and that was looked
22 into through all the proper procedures, but there was no
23 proof that anything had taken place. I think that might
24 be the second offence that's on the one there.

25 LADY SMITH: What do you mean when you say "no proof",

1 David?

2 A. I mean it was -- there was the statement by the child,
3 but there was no corroborating evidence, if I want to
4 put it that way. So there was no charge, and in fact he
5 was seen to be exonerated in many ways and carried on as
6 a foster carer.

7 LADY SMITH: What do you mean by "seen to be exonerated"?
8 I'm sorry to press you, I'm just trying to understand
9 what you're saying.

10 A. There is a statement in a review that he was -- I can't
11 remember the exact wording and I'm happy to get it and
12 I'm happy to pass on to people have not got it
13 already -- which basically is saying, "There was no
14 proof, carry on as a foster carer".

15 It was as if it didn't happen, as if it had been
16 a malicious allegation -- I use those words very
17 carefully -- but he carried on as a foster carer.

18 Subsequently there was a second allegation, I think
19 it was a couple of years later, and certainly that one
20 was taken seriously, was charged, and then they
21 re-looked at the earlier one on the basis of the later
22 one, and that was done -- both were carried out through
23 all the right processes. However, that didn't protect
24 the second child, you might argue.

25 LADY SMITH: Also, we know from looking at the court

1 minutes, that it's not that he was convicted on
2 a verdict of a jury or, if it had been prosecuted,
3 a summary by the sheriff. He admitted these offences.
4 A. Yes. Ultimately he did.
5 LADY SMITH: So what's the learning from that?
6 A. I -- when an accusation is made against a carer,
7 obviously we need to follow the process to go through.
8 I think once that has completed -- even where there's
9 not proof beyond reasonable doubt, you know, there's not
10 enough proof to follow through with the charges, I think
11 the -- what isn't clear from our records is what sort of
12 risk assessment process went on following that, and
13 that's certainly something I would argue that we have
14 improved on quite drastically since the mid-1990s, but
15 clearly there is no evidence of that having taken place.
16 I can't find anything to -- for that having taken place.
17 The other bit of learning I'd have to say is about
18 learning. We also have no written evidence that there
19 was a kind of learning review after either of these two
20 cases you're talking about where we sat down and went:
21 it might be the system did all the right things and it
22 might be the system caught what was going on, but
23 there's always something to learn, always something to
24 learn, even if things are done in a pristine fashion.
25 We have no evidence of that having taken place, and

1 clearly that would be something we would now do.
2 Without a shadow of a doubt, we would now do, whether it
3 be through SAR processes, whether it be through child
4 protection committee, depending on the gravity of what
5 has gone on. Certainly these ones would.

6 So both once he was convicted and after the first
7 allegation, there's no real proof of risk assessment or
8 learning review having gone on, and that would certainly
9 be a piece of learning we take forward in our evolution.
10 It's something I have talked to folk about, saying,
11 "Assure me this couldn't happen again".

12 I'm more assured, I have to say, but that would have
13 to be something that's talked about.

14 LADY SMITH: I wonder whether part of the modern approach is
15 of course that we interview children rather differently
16 now. We listen to children rather differently now, and
17 perhaps are slower to dismiss their allegations out of
18 hand.

19 A. Absolutely. The question on was there systemic failure.
20 Sometimes there weren't failures of the system, but it's
21 about the attitudes and values that we have within the
22 system, so you might have the best system in the world,
23 but if the attitudes and values aren't right -- and that
24 is about listening to children, it's about children's
25 rights, it's about trauma aware, it's about being in the

1 moment with children rather than trying to solve it for
2 them. You know, a whole lot of different things that
3 are part of the culture.

4 So perhaps even more important than the system --
5 because we can write a system -- is about the attitudes,
6 values, culture which pervades that system, and perhaps
7 that is something exposed by these cases.

8 LADY SMITH: Thank you.

9 MS INNES: You've highlighted another conviction. Can we
10 look now at JUS-000000048, and we see here an extract in
11 respect of an accused, Stephen McNally.

12 A. Yes.

13 Q. Who was convicted on 7 October 1994, so that was in the
14 Strathclyde period.

15 A. Mm-hmm.

16 Q. If we scroll down a little, we can see that he had been
17 convicted in respect of five charges, sexual offences
18 and lewd and libidinous practices. If we go on, please,
19 to the next page, we can see the nature of the charges.

20 I think again it's redacted, my Lady, but there were
21 five charges in respect of four complainers, and the
22 charges cover various periods from 1984 up to 1993.

23 Again one can see: the first charge, the period of
24 1984 to 1986; second charge, 1985 to 1986; third charge,
25 amended in 1991; fourth, 1989 to 1992; and then, over

1 the page, 1992 to 1993.

2 Again there were various charges in respect of which
3 this person was convicted and were you able to look at
4 files in relation to this case and tell us more about
5 it?

6 A. Sure. These were carers, both Mr and Mrs McNally, who
7 were actually very well thought of. They were also
8 willing to take on, you know, groups of youngsters. And
9 certainly something that has moved on since this time
10 was at one point they had eight or nine, two big sibling
11 groups, in their care, and probably bigger than any
12 children's home at the time.

13 Now it's a maximum of three and it's only with the
14 Chief Social Worker's authority because it's a sibling
15 group or whatever we can go slightly beyond that, but
16 there's no way we could be authorising eight or nine.
17 They were in a relatively rural area.

18 So the ability to supervise and to support as well.

19 So when we have the pragmatics of: we've got a big
20 family group, what on earth are we going to do? I'm
21 sure whoever was making the decisions at the time were
22 relieved that they had somebody who would take on
23 another big family group. But ensuring we're meeting
24 the needs of the children and not the needs of the
25 system to just have children placed I think comes over

1 very clearly from this.

2 This came out that, unlike the other one, there
3 wasn't previous allegations to the best of my knowledge.
4 There was an allegation and then the system in terms of
5 investigation worked at that point. All the children
6 who had been with the family were investigated, all of
7 these things came out.

8 Of course when we look back in retrospect we go: how
9 did we not see this? But we didn't. And he was
10 convicted, as the sentences are in there.

11 The information you have is probably already pretty
12 full. I'm struggling to think what I could add, but I'm
13 more than happy to take specific questions.

14 Q. In terms of overall learning, well, again, I suppose,
15 after this conviction, are you aware of any kind of
16 learning review, significant case review --

17 A. No.

18 Q. -- being carried out?

19 A. That's definitely a gap. Without a shadow of a doubt,
20 that's a gap. So if there's learning, it's there needed
21 to be learning, without using the word twice, but
22 I think that's undoubtedly the case.

23 And I am relatively confident that now in 2022 we
24 would have that learning in place, we would have it done
25 independently via CPC, probably. It would report to the

1 chief officer's group for public protection, so it would
2 be -- the learning would be all the way to the chief
3 executive, so the health board, police and Council.

4 So we're definitely in a different world than we
5 were then, but looking back, there was a failure to do
6 learning.

7 The other thing which could also be the case is
8 there was a failure to record any learning, because I'm
9 sure people did soul search after that. There's not
10 an ounce of proof that that took place. So it is
11 something else we talk about is making sure we record
12 the learning so that can -- so people can find it in the
13 future, so people can learn from it in the future as
14 well.

15 That would be my biggest reflection on what I've
16 read with both of these cases.

17 Q. Can we move back, please, to ABC-000000025, page 7. In
18 this question you were asked about these convictions and
19 asked whether any changes had been identified as
20 a result of the convictions. The answer is:

21 "As a result of the multi-agency investigation and
22 subsequent convictions of these carers, Argyll and Bute
23 Council reviewed its approach to the assessment, support
24 and supervision of foster carers and established
25 a specialist Family Placement Team, independent of the

1 child's social worker and the child's social work team,
2 with its own team manager and qualified social workers,
3 to assess, supervise and support foster carers. Prior
4 to the establishment of the Family Placement Team,
5 foster carers could be supervised by a social worker who
6 was also the worker for the child."

7 Were you able to find or was there institutional
8 knowledge about a connection between these convictions
9 and these changes or --

10 A. I think the potential conflict of interest where you're
11 a social worker and you really want this placement and
12 you really don't want this placement to break down, and
13 what that might blind you to I think is the underlying
14 message to this. So teasing out those conflicts of
15 interests, having as many checks and balances as
16 possible.

17 So my understanding is as a reaction to what went
18 on, that the Family Placement Team was there, which now
19 has six people, as we remember from earlier on.

20 And, equally, we are now recognising the exact same
21 dynamic could potentially be the case for kinship care,
22 where the social worker is doing the initial assessment
23 if not the whole assessment of kinship carers. So we're
24 just in the process of taking that out of the practice
25 team sphere and putting it into the fostering and

1 adoption team.

2 We also have independent reviewing officers, so
3 we've not got the senior social worker reviewing, as
4 would have been the case I'm guessing in 1996. We have
5 independent reviewing officers, completely independent,
6 different team, and they'll take a clearer view on where
7 it's going.

8 And that -- that debate that can take place between
9 the practice team and the independent reviewing officers
10 and the fostering and adoption team is a good thing,
11 it's a really good thing, because it stops the potential
12 for collusion, there's far less likelihood of it and
13 that definitely would be some of the learning.

14 The one bit I'm hesitant of is we were coming out
15 the Strathclyde era as both of these things were
16 happening and Strathclyde was an enormous authority.
17 Certainly one of these groups of children was from
18 Glasgow, exactly the dynamics I wouldn't want to comment
19 on, they're not 100 per cent clear. These were children
20 who were coming from elsewhere into Argyll and Bute but
21 it was all part of Strathclyde at the time. So there
22 was a complexity in that relationship.

23 LADY SMITH: You mentioned kinship care in passing there.

24 A. Yes.

25 LADY SMITH: When you think about it, is the risk of abuse

1 any less in kinship care than it is in foster care?

2 A. No. I think we -- "we" being the royal we for the whole
3 profession. I think we're recognising that more and
4 more.

5 One of the real debates is the nuance between
6 informal -- to go back to that word -- informal kinship
7 care and formal kinship care. When a child's staying
8 with a granny, is that formal kinship or not? And we
9 get caught up in that at times.

10 However, it's not only something that needs to come
11 into that fostering and adoption proper assessment area,
12 for exactly the reasons you're saying. It's also
13 potentially one of our greatest resources, which has
14 been underused perhaps over time, and I don't say that
15 as an exigency, an easy answer, I think it probably has
16 been, but not assessed properly as well.

17 For many of the questions in section 21, the Part A
18 I think it is, where we're talking about how do we
19 support and all these things, we could be asking that
20 now about kinship care and are asking that now about
21 kinship care.

22 LADY SMITH: Good.

23 Let me put it this way. Is there a risk that's
24 peculiar to kinship care of the profession thinking that
25 because the care is being delivered by a family member

1 or somebody that's previously known to the child and
2 close to the family, the risk of abuse is less? A risk
3 of thinking the risk is less because of the nature of
4 the placement?

5 A. Yes.

6 LADY SMITH: And you need to be aware of that.

7 A. Absolutely.

8 LADY SMITH: Thank you.

9 Ms Innes.

10 MS INNES: Thank you, my Lady.

11 If we can now look, please, at Part B of your
12 response, so it's at ABC-000000027 and at page 25. Just
13 going over the questions that are posed there. First of
14 all:

15 "Does the Local Authority accept that between 1930
16 and 17 December 2014 that any children in foster care
17 were abused?"

18 I think that the answer to that is yes?

19 A. Correct.

20 Q. Given what you've --

21 A. Absolutely, yes, correct.

22 Q. If we look at 3.2:

23 "Does the Local Authority accept that its systems
24 failed to protect children in foster care from abuse
25 over the relevant period?"

1 What's the Local Authority's position on that now?

2 A. The Local Authority's position would be, if I take the
3 three periods, and certainly in the earlier period it
4 would have to be we have no evidence in either
5 direction, we have no evidence there were systemic
6 failings, but equally we have no evidence there weren't
7 systemic failings.

8 We have evidence of children who have been abused or
9 there have been complaints made against foster carers in
10 the period -- the end of the Strathclyde period and into
11 the Argyll and Bute period. It's not clear that those
12 were as a result of systemic failure. In some ways the
13 two convictions, the system picked up those things.

14 I would go back to my point, though, about learning.
15 I think there was a failure to sit down and look at what
16 could be learned and recorded.

17 And, equally, I would say the attitudes and values,
18 the culture, may well have had as big a contributing
19 factor as the system, as such.

20 So we would continue to say there's undoubtedly been
21 abuse and absolutely, you know, that's abhorrent and we
22 would apologise for any youngster in our care who has
23 experienced such trauma. It's not clear those were the
24 result of systemic failures. We probably haven't got
25 enough evidence for a small authority, I'm talking 10,

1 11, 12 cases over the 20-year -- actually, more than
2 20-year period if we look at the entirety of it. So
3 I don't think there would be enough information as yet
4 to conclude that it was a systemic failure.

5 Q. I suppose putting it another way, if we think about the
6 David McIntosh conviction, the system failed to
7 protect -- well, the first child. You might not know
8 why that was, but the second child certainly failed to
9 be protected because the first allegation was
10 unsubstantiated and the system said, "You can have
11 another child, you can carry on as a foster carer".

12 A. Sure. They obviously -- the social work system, the
13 police system, all systems within that, the collective
14 multi-agency system, didn't feel that -- didn't
15 legitimise what was said there.

16 I go back to something my Lady said. I think
17 attitudes, values have probably as much to blame for
18 that as any procedure that's written down. So if the
19 system is attitudes and values, I would agree with you.
20 If the system is procedures, then I think we would still
21 hold that at the moment we don't have enough evidence to
22 say of systemic failure.

23 Maybe -- I'm toying here, it's a really difficult
24 one, "systemic" and "systematic" failure are two
25 different things. Was there systematic failure?

1 I think I would be comfortable saying no.

2 Did the system let those particular few children
3 down? Yes.

4 LADY SMITH: Don't all systems require to be driven by
5 underlying values?

6 A. Couldn't agree more.

7 LADY SMITH: If you don't have those right, you're at risk
8 of having inadequate systems in place, or the wrong
9 systems in place.

10 A. Absolutely. Couldn't agree more.

11 And that, if I call it culture, I think we've got to
12 constantly be renewing our culture, we have to
13 constantly be reminding, it just doesn't happen. There
14 are some questions on the section 21 about the culture
15 of various authorities. When I was doing the Western
16 Isles report, as I did, I think we did say it's
17 impossible to say, you know, I genuinely have no idea
18 what the culture was in Argyll and Bute in the 1950s.
19 Very reflective of what the culture was in society,
20 I would imagine.

21 And I would have to say, without going into the
22 detail of an example, I had a situation with
23 a cross-border placement in a private residential place
24 and I was heartened by the attitudes and values that
25 I saw from our Police Scotland, from the health

1 services, from A&E nurses, from local police, from the
2 duty social workers who were going. It was probably the
3 clearest example I've ever seen of GIRFEC, Getting It
4 Right For Every Child, being embedded in people's
5 attitudes and values.

6 It's a long story which is not for here.

7 That gave me much more hope than perhaps I had.
8 I did worry that Getting It Right For Every Child had
9 turned into a policy, a system, a new form. At that,
10 only a few weeks ago, I did think no, there's a culture,
11 there's attitudes and values around it which are far
12 more important than: do we all have a common form?

13 I'm being long winded in agreeing completely with
14 what you're saying.

15 LADY SMITH: GIRFEC may be no more than another way of
16 stating what was stated in the Children Act 1995, that
17 the interests of a child are paramount.

18 A. And I would maybe take that even further back. I think
19 we are perhaps -- we already knew when Kilbrandon wrote
20 the Kilbrandon report. We knew when Angus Skinner wrote
21 Another Kind of Home, the Skinner report. These all
22 have got these values, sometimes wrapped up in different
23 ways, but we've known some of these answers for a long
24 time and perhaps our question is: why have we not done
25 it already? Why did we not have this in?

1 However, I have seen an example recently where I saw
2 the right attitudes and values coming right across the
3 board, from nurses to police officers to senior
4 managers, and that certainly was heartening and would
5 give me more hope that we would have less of a chance of
6 some of the issues that we've talked about today
7 happening again.

8 LADY SMITH: Two other quick questions --

9 A. No worries.

10 LADY SMITH: -- on possible risks.

11 The first I think is peculiar to small authorities
12 like yours that may be struggling more than the larger
13 authorities in getting foster carers.

14 A. Mm-hmm.

15 LADY SMITH: Do you have to be particularly aware of
16 allowing yourself to be influenced by a desire not to
17 lose a foster carer off your books --

18 A. Yes.

19 LADY SMITH: -- when looking at an individual allegation?

20 A. Yes.

21 One of my own personal watchwords is: but we can't
22 make the easy decision, we have to make the right
23 decision. And sometimes you make the decision and your
24 heart's sinking at the potential implications, but we
25 have to -- through my career and through some pain,

1 sweat and tears, I've made easy decisions in the past
2 which have come back to haunt me and I've spent many,
3 many, many times more effort and time sorting them out
4 than I would have done if I'd just made the hard but
5 right decision at the time.

6 So I agree again completely with what you're saying.

7 LADY SMITH: The other one is the risk of allowing yourself
8 to be unduly comforted, if I can put it that way, by
9 a police decision not to take an allegation any further.
10 Because you have to exercise your own judgement as to
11 what's the right thing to do for the child, don't you?

12 A. Yes, we do. And I think the fact that we're making
13 the -- so if I go over just approving a foster carer,
14 I don't get involved in any of that assessment, I do the
15 agency decision maker, so I review it again.

16 So even where -- we have foster carers in our
17 smallest communities who know the social workers, who go
18 to shops with the same social worker, the fact that
19 I make the ultimate decision at some distance allows us
20 to be a bit more thorough in that.

21 And again when it comes to enquiries, you know, if
22 necessary, if there was felt to be any conflicts of
23 interest, it's okay for people to say that and we can
24 put it up to myself and the DCI, for example, and we'll
25 be that bit further away.

1 So definitely admitting the conflicts of interest
2 when they exist needs to be something that's
3 professionally much more relevant in small, rural and
4 particularly in island communities.

5 LADY SMITH: Conflicts of interest apart, just because the
6 police say there's not enough here for us to
7 prosecute --

8 A. Absolutely.

9 LADY SMITH: -- doesn't mean in any Local Authority area
10 that difficult decisions might not have to be made
11 regarding the continuation either of that placement or
12 of that foster carer's registration.

13 A. Absolutely. Being charged or not charged is not the be
14 all and end all, and you can see where that has affected
15 one of the cases we talked about there. But being
16 charged cannot be the be all and end all. It's about
17 risk assessment, formal, written risk assessment, and
18 sharing that with the young people and also the foster
19 carer we're assessing as a risk. That's okay. It needs
20 to be transparent, it needs to be clear.

21 LADY SMITH: Thank you very much.

22 Ms Innes.

23 MS INNES: Thank you. If I can just ask you to look on to
24 page 26, please, and to the question:

25 "Does the Local Authority accept that there were any

1 failures or deficiencies in its response to abuse?"

2 This is looking at the Local Authority's response to

3 abuse or allegations of abuse.

4 A. I'd stand by what I said today, which is they're

5 undoubtedly and it happened twice in that particular

6 case, I would say that there has been deficiencies.

7 I think the response: learning from the learning, is

8 another one that I would put in there.

9 So I would probably have answered that question --

10 you would -- you'll not be surprised if it's me, in

11 a slightly more long-winded fashion than is in there.

12 Q. Thank you. I think what's said in fact there is that:

13 "No, no failures or deficiencies in response have

14 been identified in the time of ..."

15 A. I would never write "no" because that's dangerous ground

16 to get in, to be quite so absolute.

17 MS INNES: Thank you very much, David, for your assistance

18 today. I have no more questions for you.

19 A. Thank you.

20 LADY SMITH: My thanks also to you, David. You'll be glad

21 to hear I don't have any more questions. I'm very

22 conscious of the fact I've pressed you quite a bit this

23 afternoon, but I'm sure you understand it's done for the

24 sake of children.

25 A. No, totally.

1 LADY SMITH: Thank you also for coming to speak to
2 a response that you didn't write. I'm grateful to you
3 for being able to do that, and for the understanding and
4 learning that you've added to what we already had from
5 what came to us in writing.

6 I'm now able to let you go and get back to -- I was
7 about to say the west, but then some people refer to
8 your authority as being one of the southern-most in
9 Scotland, which I think if you work out where your
10 southern tip is, that might be an acceptable thing to
11 say.

12 A. If you live in Islay there's only two place, home and
13 away, and everything else is east.

14 LADY SMITH: Have a safe journey back.

15 A. Thank you.

16 (The witness withdrew)

17 LADY SMITH: Well, Ms Innes, till tomorrow.

18 MS INNES: So tomorrow we have Edinburgh and Fife.

19 LADY SMITH: Quite a contrast to where we've been today.

20 Very well. I'll rise now until 10 o'clock tomorrow
21 morning. Thank you.

22 (3.50 pm)

23 (The Inquiry adjourned until 10.00 am on
24 Thursday, 19 May 2022)

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Ms Caroline Sinclair (affirmed)	1
Questions from Ms Innes	2
Mr Jack Libby (sworn)	52
Questions from Ms Rattray	53
Mr David Gibson (affirmed)	102
Questions from Ms Innes	103

