

Thursday, 19 May 2022

1

2 (10.00 am)

3 LADY SMITH: Good morning and welcome to the day that we
4 come over to the Edinburgh Local Authority, as was
5 indicated last night when we finished. I think we have
6 a witness who's ready; is that right?

7 MS INNES: Yes, we do, my Lady, Jackie Irvine, who is the
8 Chief Social Work Officer.

9 LADY SMITH: Thank you.

10 Ms Jackie Irvine (affirmed)

11 LADY SMITH: Can you start by helping me with this. How
12 would you like me to address you? Either Ms Irvine or
13 Jackie?

14 A. Jackie's fine.

15 LADY SMITH: Well, Jackie, I see you have the hard copy
16 ready in front of you that has Edinburgh's written
17 responses to us in relation to our section 21 orders.
18 You'll be referred to parts as we go along, you can use
19 the hard copy or look at what comes up on screen as and
20 when it does.

21 Other than that, any questions or concerns, please
22 let me know so that I can do everything --

23 A. No, that's fine.

24 LADY SMITH: -- possible to give you as comfortable
25 an experience as I can.

1 A. Thank you.

2 LADY SMITH: We usually take a break around 11.30 if that
3 works for you, assuming you're still giving evidence by
4 then -- I think you might be.

5 A. I think I might be.

6 LADY SMITH: If you have no questions at this stage, I'll
7 hand over to Ms Innes and she'll take it from there. Is
8 that all right?

9 A. Thank you. Yes, that's fine.

10 LADY SMITH: Thank you.

11 Ms Innes.

12 MS INNES: Thank you, my Lady.

13 Questions from Ms Innes

14 MS INNES: Jackie, we understand that you are currently
15 Chief Social Work Officer and service director of
16 children's and criminal justice services at the City of
17 Edinburgh Council.

18 A. Yes, that's right.

19 Q. You've been in that position since July 2018?

20 A. Slightly changed, I came in July 2018 as Chief Social
21 Work Officer and Head of Safer and Stronger Communities,
22 so I moved over to taking on responsibility for
23 children's services in June last year.

24 Q. We know from the CV that you provided to the Inquiry
25 that I think you started your career as a social worker

1 in 1989?

2 A. That's right.

3 Q. Then you were working in London?

4 A. Yes.

5 Q. You moved, I think, to Glasgow City Council and then
6 Renfrewshire Council. In Glasgow City, I think you
7 started there in September 1991?

8 A. Mm-hmm.

9 Q. Then remained as a social worker, as I say, with those
10 Local Authorities until October 1996.

11 And you worked again with Glasgow City Council from
12 March 2000 until May 2002 --

13 A. Mm-hmm.

14 Q. -- this time as a project manager for looked-after
15 children?

16 A. Yes.

17 Q. I think you note in your CV that that involved reviewing
18 and producing Council-wide procedures and policies and
19 associated training?

20 A. Yes.

21 Q. Then from there you continued your work with Glasgow in
22 strategic social work planning, I think?

23 A. That's right.

24 Q. Then from October 2007 to April 2009, you were a child
25 protection inspector with HMIE?

1 A. That's right.

2 Q. Then you returned, I think, to Local Authority in
3 April 2009, working for three years with North
4 Lanarkshire as a manager of Children and Families?

5 A. Mm-hmm.

6 Q. Then in April 2012 you moved to become head of
7 children's healthcare and criminal justice services and
8 CSWO at West Dunbartonshire?

9 A. That's right.

10 Q. And from there you came to Edinburgh, as you have said?

11 A. Yes.

12 Q. I understand from what you've said that at the time that
13 this section 21 response was served, I think although
14 you were Chief Social Work Officer you had a different
15 role in the Local Authority?

16 A. Yes.

17 Q. And you also weren't at Edinburgh when they first
18 responded to section 21 notices for the Inquiry.

19 A. Yes.

20 Q. But I think that since knowing that you were coming to
21 give evidence, you've familiarised yourself with the
22 documentation --

23 A. Yes.

24 Q. -- that's been provided by Edinburgh?

25 A. (Witness nodded)

1 Q. If I can take you, first of all, to your Part A
2 response, it's at EDI-000000073, page 1.

3 At 1.1(a) we see there that the predecessors of the
4 City of Edinburgh Council were Edinburgh Corporation
5 from 1930 to 1975, then it formed part of Lothian
6 Regional Council and in 1996 it became the City of
7 Edinburgh Council.

8 A. Yes.

9 Q. I'd like to ask you a little bit about how the Local
10 Authority approached dealing with this section 21
11 notice. To assist you, if we can look, please, at
12 EDI-000000655, where we see a number of questions that
13 were posed.

14 If we scroll down to the bottom of the page, please,
15 and this is discussing the case file review that you
16 carried out. Before we get to the case file review,
17 perhaps you could explain how the Local Authority went
18 about addressing issues like finding policies, finding
19 archive material.

20 A. Yes. So I think the team that was in place at that time
21 obviously worked on the basis of the policies and
22 documents that they'd contributed to the residential
23 section 21 notice, but realised that they would need to
24 review how that applied specifically to foster care. So
25 the initial approach was to audit children's files to

1 see evidence of the policies and procedures and whether
2 they'd been followed and put into place, and that
3 started -- that was the first start of the process.

4 They also split up the questions and sections so
5 that they could point information from those children's
6 files to those sections. And I think what they quickly
7 found out was that whilst there was evidence of policies
8 and procedures being used and followed, should I say,
9 that they were not able to get the level of detail in
10 relation to specific complaints from the children's
11 files, so they moved on to look at the foster care files
12 with a kind of a focus on the de-registered cases.

13 Q. Okay. If we look at, to put this in context, at the
14 bottom of page 1 of this document, you give us some
15 estimated numbers of records. So nearly 14,000 records
16 for children in the care of the City of Edinburgh and
17 its predecessors?

18 A. Yes.

19 Q. So that's the number of records, but then separately the
20 Local Authority had established that there were over
21 20,000 children in the care of the Local Authority first
22 of all I think between -- yes, between 1930 and 1972.

23 A. Mm-hmm.

24 Q. So in respect of that period, and just over 8,000
25 children in foster placements from 2000 to 2015.

1 A. Mm-hmm.

2 Q. So those were global numbers that your team were able to
3 find.

4 A. (Witness nodded)

5 Q. Okay. If we go onto the next page, please, page 2, you
6 refer there to the Inquiry's section 21 notices in
7 relation to some residential establishments which were
8 submitted in 2017?

9 A. Yes.

10 Q. As you've said, it notes there:

11 " ... we undertook a file audit of our historic
12 children in care record series to support our response
13 to Part C."

14 So about policy and procedure?

15 A. (Witness nodded)

16 Q. You say:

17 "This was undertaken by a seconded auditor, who
18 advised that 10 files per decade was an appropriate
19 sample for our purposes. Please bear in mind that this
20 audit was to establish patterns of policy and practice
21 from within case files in an attempt to provide some
22 evidence to those time periods and subject areas where
23 there was little other evidence."

24 Am I right in understanding that you looked at
25 children's files in order, first of all, to assist you

1 in answering Part C?

2 A. Yes.

3 Q. And taking the advice of the auditor who had done work
4 for you before, you took the same sample --

5 A. Yes.

6 Q. -- so 10 files per decade? I think in the next
7 paragraph you indicate that you used your finding aids
8 to identify children who were in care during each decade
9 and ten files per decade were selected at random if
10 possible, were then reviewed by the auditor against
11 criteria that were drafted by two seconded social
12 workers. So that then informed your answers to policy
13 and practice in section C?

14 A. Mm-hmm.

15 Q. Then I think as you've indicated in the next paragraph
16 it says that the project team realised that another file
17 audit of children's files would be appropriate, for much
18 the same reason.

19 A. Mm-hmm.

20 Q. This time the audit would focus on fostered and
21 boarded-out children, and if we go on to question 2, if
22 we scroll down, I think that's asking again about this
23 part of your case file audit, so the file audit that fed
24 into questions in Part C and you provide a little bit
25 more detail there in terms of the number of files that

1 you were able to identify.

2 So, for example, you say that for the 1940s you
3 couldn't identify any surviving boarded-out children
4 client files.

5 A. Mm-hmm.

6 Q. So whilst you were aiming to get 10 per decade, you
7 couldn't always achieve that?

8 A. Mm-hmm.

9 Q. Then I think you provide some further information in
10 relation to a question in Part C.

11 If we move on, please, to page 7, at the top of this
12 page you're discussing foster carer records. So did you
13 undertake an audit of foster carer records?

14 A. Yes, we did.

15 Q. What was the purpose of that?

16 A. I think really to see the scale in terms of the
17 magnitude of auditing. So my recollection is there were
18 585 or 586 de-registered cases, and then cases that
19 remained open and active, so they'd been established
20 carers before 2014 and continued to be used by the
21 Council.

22 Q. You refer at the beginning of this section to the
23 retention period for carers --

24 A. Yes.

25 Q. -- and obviously it's a 25-year from de-registration,

1 and therefore you only had files that were de-registered
2 from 1990 onwards.

3 A. Mm-hmm.

4 Q. You note that there were a few earlier carer files.

5 A. Yes.

6 Q. But even looking at those files, you say that you were
7 able to look back to previous decades --

8 A. Mm-hmm.

9 Q. -- to some extent, and you set out there --

10 A. Mm-hmm.

11 Q. -- the numbers that were relevant to each period?

12 A. Mm-hmm.

13 Q. So for example one started fostering in 1960, seven in
14 the 1970s and then obviously increasing over time?

15 A. Yes.

16 Q. Then in terms of the file audit, if we scroll down
17 again, please, in the answer again in red you say that
18 after some initial research, the council's project team
19 came to the conclusion in November 2019 that a foster
20 carer file audit would be important --

21 A. Mm-hmm.

22 Q. -- to the section 21 notice response, in particular
23 around complaints, because no foster care complaints
24 register was found prior to 2006?

25 A. Yes.

1 Q. So I'm assuming that from 2006 the Local Authority have
2 a register of complaints against foster carers?

3 A. They do have a register of complaints and within that
4 would be against foster carers, so it's not a separate
5 one at that point.

6 Q. Okay.

7 A. I think the issue was probably the move from Lothian
8 Regional Council to City of Edinburgh Council, because
9 there would have been districts and those complaints
10 would have probably been identified and passed to the
11 relevant area of the region, therefore maybe not
12 amalgamated, but that's my guesstimate.

13 LADY SMITH: Did there come a time when a separate foster
14 care complaints file started to be kept?

15 A. I'm not aware of that, Lady Smith. I'm really not sure
16 when that would be. I think my understanding is in the
17 Lothian Regional Council period there was not a records
18 management post, so some records were difficult to find.

19 LADY SMITH: Do you have one now?

20 A. We do have a complaints process, yes. We collate that.

21 LADY SMITH: Do you have a separate recording of foster care
22 complaints?

23 A. Yes, yes.

24 LADY SMITH: Thank you.

25 MS INNES: You note that you have files for an estimated 843

1 foster carers --

2 A. Mm-hmm.

3 Q. -- both current and historic, and you sought
4 an extension in terms of the timescale for the notice in
5 order to review the de-registered foster carer files,
6 which were 586 foster carers, as you mentioned?

7 A. Mm-hmm.

8 Q. I think initially it had been intended to review all of
9 those files?

10 A. Mm-hmm.

11 Q. Can you explain, please, what happened?

12 A. So we realised that was a large scale at the time and
13 the initial team was -- we seconded more people in, so
14 we were ready to go with a larger group of staff to go
15 through those files, and obviously that started at that
16 point, but then Covid, the pandemic hit and our building
17 was closed so people were asked to work from home.

18 These files were mostly paper and held in our Iron
19 Mountain storage and therefore we couldn't get in.

20 Now of course I think we all expected the pandemic
21 to last a couple of months maybe and we're still kind of
22 in it, so we got through the 230, which was about
23 30 per cent of the sample, and then we asked -- and that
24 was with asking for the extension to February 2020.

25 The consideration after that was we could keep

1 asking for three- to six-month extensions. We didn't
2 think that that was helpful for the Inquiry or the
3 victims going through the process, so we agreed -- not
4 me, but my understanding is that senior management and
5 the corporate leadership team agreed to submit the
6 section 21 with that 30 per cent audit sample.

7 Q. If we look onto the next page at the top of page 8 you
8 say there:

9 "In the roughly six weeks of operation, the foster
10 carer file audit team had reviewed 230 of the 586
11 de-registered foster carer files."

12 A. Mm-hmm.

13 Q. You note at the end of that paragraph:

14 "The audit wasn't undertaken chronologically, so
15 a range of de-registration dates were covered in the
16 230 ..."

17 A. Yes.

18 Q. So those files had been looked at.

19 You note in the next paragraph that the 586 files
20 are for de-registered foster carers only.

21 A. (Witness nodded)

22 Q. So it doesn't include active carers who started caring
23 prior to 2014.

24 A. So we did actually review -- because of the initial 230,
25 some of those were not registered to take children, I'm

1 not quite sure why. Because 121 cases were not directly
2 relevant. So we went on to review 230 out of a sample
3 of about 720. So that included de-registered as well as
4 carers still active.

5 Q. Okay.

6 LADY SMITH: Can we just go back up to show the whole of
7 that first paragraph.

8 I see, Jackie, there, a few lines down, you explain
9 that --

10 A. Yeah.

11 LADY SMITH: -- some files were discounted --

12 A. Yes.

13 LADY SMITH: -- because they were for day care or --

14 A. Kinship.

15 LADY SMITH: -- carers that had never actually cared for
16 children or kinship carers. Were no kinship care files
17 looked at at all?

18 A. No, they weren't. We wouldn't class kinship carers as
19 foster carers, so they were family arrangements but we
20 weren't under that impression that we were looking at
21 kinship, is my understanding at the time.

22 LADY SMITH: Are we going to explore this, Ms Innes?

23 MS INNES: Well, in terms of kinship carers, what would your
24 understanding be of that type of arrangement? Because
25 you might have a family member who had been registered

1 as a foster carer, so would they not be caught by the
2 foster care --

3 A. They would be, and they would then be in that file. But
4 if they weren't foster carers and they were purely
5 kinship carers, so that doesn't need to be a family
6 member, it could be a close associate of the family,
7 then we would manage those cases usually through
8 section 11 of the 2000 and 1995 Act so they wouldn't be
9 foster carers as well.

10 Q. Okay.

11 A. We have a kinship team, so within our family-based care
12 currently and for some time we've had fostering,
13 adoption and kinship, and that's the way those cases are
14 managed, so there's a separation. They equally get
15 support obviously and guidance and we've got a duty
16 under section 11 or under a supervision order to
17 maintain an assurance that the care's appropriate, but
18 they're not -- they're not assessed in the same way.
19 There's a fairly thorough assessment, but it's
20 a different set of carers.

21 LADY SMITH: Well, exactly. And there came a time, as
22 I understand it, that Local Authorities started paying
23 kinship care allowances?

24 A. Yes, that's right.

25 LADY SMITH: Have you looked at the files from that time for

1 kinship care?

2 A. We will have kinship carers now who will all get
3 a proportion of an allowance that's compared to the
4 fostering allowance, as you'll know. We've not looked
5 at those files.

6 Well, the ones that were discounted were reviewed,
7 but I don't know how -- what we would want to clarify,
8 I think, for you is whether they were discounted
9 immediately or whether they were reviewed, and certainly
10 any complaints in relation to kinship is my
11 understanding were not collated into the foster care
12 complaints.

13 LADY SMITH: We may want to reflect on that. Other
14 authorities have given us the figures and details for
15 kinship care.

16 A. Right.

17 LADY SMITH: And I think we need to know them. Kinship care
18 is covered by our definitions in our terms of reference,
19 so we may require you to do that.

20 A. I think my apologies for that. Having not been around
21 when that section 21 was received, I wasn't aware of
22 that.

23 LADY SMITH: Ms Innes.

24 MS INNES: Thank you, my Lady.

25 You say that you looked at 230 files before lockdown

1 essentially?

2 A. Yes.

3 Q. I think that you then identified 172 of those as

4 relevant?

5 A. Yes.

6 Q. If we go onto the top of the next page, you've noted

7 a breakdown of the 172 files --

8 A. Mm-hmm.

9 Q. -- and the types of care that was provided?

10 A. Yes.

11 Q. So a variety of different types of care.

12 Right. I presume you then looked at those files in

13 order to inform the answers to Part D of the Local

14 Authority's response?

15 A. Yes. It's maybe worth noting though that we went beyond

16 the 172 and obviously reviewed appropriate files up to

17 230, so we were back at the 30 per cent. So we used

18 that short period of time to make up that -- not -- we

19 didn't just leave it off at that point.

20 Q. We know, and we'll come to in due course, that there

21 were convictions, for example --

22 A. Yes.

23 Q. -- of foster carers. Were those specifically selected

24 because of knowledge that those people had been

25 convicted or did they just happen to be looked at in

1 this sample?

2 A. I can't comment on that, having not been part of that,
3 but what I would say is that because the sample wasn't
4 100 per cent, there may well be other convictions in
5 there that we are unaware of, and there may also be
6 cases where we've de-registered and they've been
7 convicted post de-registration.

8 Q. Is it the case that if a carer was convicted -- well,
9 how would the Local Authority find out about that?

10 A. Well, if they were de-registered, therefore no longer
11 an open case to us, there would be -- you know, we might
12 find out from the media, for example, or from reporting
13 of court processes, but we wouldn't find out
14 automatically because of data protection, there would be
15 no requirement to tell us.

16 Q. If the person was a current carer would you be told in
17 those circumstances?

18 A. Yes, yes. If the person was a current carer, we'd be
19 following the case and obviously relating -- and
20 liaising with police and PF in relation to when it was
21 due to appear at court.

22 Q. Thank you.

23 I'd like to take you through some of the documents
24 and material that you've provided to the Inquiry
25 charting the history of the authority's involvement in

1 foster care.

2 If I can start by looking at the early period, so
3 the Edinburgh Corporation period. If we can look first
4 of all, please, back at Part A, so EDI-000000073, and if
5 we can look, please, at page 5.

6 If we scroll down to the second part, so (b), so the
7 paragraph that's up on screen now, I think you have
8 found a Children's Committee minute referencing
9 boarded-out children being placed throughout Scotland
10 and beyond --

11 A. Mm-hmm.

12 Q. -- including one girl placed in Cornwall. The minutes
13 also reference councillor visits to boarded-out
14 children. However, there is little information about
15 the financial arrangements in place --

16 A. Mm-hmm.

17 Q. -- for children being boarded out outwith Edinburgh, and
18 the focus of this question was on finances.

19 You then note:

20 "The only reference found relates to a request from
21 the Kirkmichael and Tomintoul Nursing Association for
22 a financial contribution in relation to 45 boarded-out
23 children from Edinburgh who were resident in their
24 area."

25 A. Mm-hmm.

1 Q. That sounds like a relatively high number of children
2 boarded out in a rural area?

3 A. Yes.

4 Q. Beyond that, do you know if the authority were able to
5 find out anything about its involvement in boarding out
6 children outwith the city?

7 A. I'm not aware that we were, and I think particularly
8 since the records from that period were scant, if that,
9 so ... and I think as you'll see we've heavily relied on
10 committee minutes to pick out those bits of detail.

11 Q. If we can look at a document that you were able to find
12 in relation to this period, so EDI-000000733.

13 A. Mm-hmm.

14 Q. I think we see that this is regulations and rules in
15 relation to boarded-out boys and girls, which has been
16 made by the City of Edinburgh following the 1932 Act,
17 and I would like to look at some aspects of this, if
18 I can find which of -- here we go.

19 First of all, if we scroll down to under,
20 "Regulations in regard to selection of foster parents",
21 do we see that it notes:

22 "A register shall be kept of persons who are willing
23 and fitted to act as foster parents ..."

24 If we look at (2), there seems to have been --
25 an application has to be made in a prescribed form,

1 I think.

2 A. Mm-hmm.

3 Q. If we look on to the next page, please, at the top of
4 page 2, at paragraph (6) do we see there that it
5 provides:

6 "Before a boy or girl is boarded out, it shall be
7 established that the selected foster parent can provide
8 the necessary and appropriate discipline and training."

9 A. Mm-hmm.

10 Q. So there as well as -- well, the focus seems to be on
11 the training of the child, not the training of the
12 foster --

13 A. Foster carer, yes.

14 Q. I assume that emphasis has changed over time?

15 A. Yes, significantly. I think some of the wording within
16 the boarding-out regulations around discipline is quite
17 concerning. That reflects the period of time, I think,
18 1932.

19 Q. Okay. If we can go on again, please, to the next page,
20 page 3, and the rules to be observed by foster parents,
21 1(a):

22 "Foster parents shall be required continually to
23 observe and comply with the following rules, and any
24 failure shall render them liable to have their names
25 removed from the register of foster parents."

1 The next paragraph provides:

2 "In consideration of such payment as may be agreed
3 upon by the foster parent and the education authority,
4 the foster parent shall bring the boy or girl up as one
5 of his or her own children and shall cooperate with the
6 education authority and their officials for the boy's or
7 girl's welfare."

8 That sounds like it's a long-term arrangement --

9 A. Mm-hmm.

10 Q. -- the language seems to suggest that the child would be
11 with the carers for a long term --

12 A. Mm-hmm.

13 Q. Again, I assume that that emphasis has changed over
14 time?

15 A. Yes. I mean I think at that point it would be a blanket
16 coverage, whereas we would -- we moved in and still have
17 the concept of emergency foster carers, you know,
18 long-term foster carers and permanent foster carers for
19 some children.

20 Q. If we look onto the next page, page 4, I think we see
21 a heading "Sleeping accommodation" and there are
22 provisions there in relation to how many people should
23 be in a bedroom?

24 A. Mm-hmm.

25 Q. That the bedroom should have a window opening and it

1 shouldn't be just going into another apartment.

2 A. Yes.

3 Q. Then some other provisions in relation to sleeping
4 accommodation, and then at (d):

5 "Boys and girls over eight shall not occupy the same
6 bedroom, and not more than two shall sleep in one bed."

7 A. Mm-hmm.

8 Q. If we go onto the next paragraph, I think we see
9 reference or more detail about what training and
10 discipline means and again I assume you would say that
11 the material here is language perhaps of its time at
12 part (a)?

13 A. Yes. Absolutely.

14 Q. At (d) there's reference to:

15 "A foster parent shall not administer indiscriminate
16 or harsh punishment on any pretext whatsoever. Any
17 serious act of misconduct on the part of a boy or girl
18 shall be reported to the children's education officer."

19 A. Mm-hmm.

20 Q. Again, I assume that over time the guidance provided or
21 regulations around discipline have become much more --

22 A. Yes, absolutely.

23 Q. -- detailed and --

24 A. I think that comment is the one I was referring to
25 earlier, it's very vague and could allow for anything,

1 really, in terms of indiscriminate or harsh punishment.
2 That's open to interpretation. But that would be
3 absolutely -- that was ruled out. Safeguarding came in
4 some years later in terms of the association of
5 safeguarding and foster care.

6 Q. If we look on to page 7, please, I think we see a copy
7 of the application that was mentioned earlier on. We
8 see that the person makes the application.

9 A. Mm-hmm.

10 Q. There's an undertaking to comply with the rules. If we
11 scroll to the bottom part of the page, I think we see
12 certain things are requested.

13 So the locality of the house.

14 At number 4, the number of rooms in the house which
15 have windows.

16 5, the size of room or rooms which are to be
17 occupied.

18 The position in the house.

19 It looks here that the information is being given in
20 writing about a description of the house --

21 A. Mm-hmm.

22 Q. -- as opposed to the Local Authority's children's
23 officer or public assistance officer going and actually
24 seeing the house.

25 A. Yes, I mean I think given that there's -- obviously they

1 may well have gone and completed this, but there's no
2 evidence to that effect from that period.

3 LADY SMITH: I think an earlier rule indicates they had the
4 power to inspect --

5 A. Yes.

6 LADY SMITH: -- but not a duty to inspect.

7 A. No.

8 MS INNES: Then at the bottom of the page there's numbers
9 about distinguishing adults, children and boarders.

10 A. Mm-hmm.

11 Q. Then over the page I think we see certain requirements
12 that we're familiar with from the legislation of the
13 time. At 10 there's reference to:

14 "State whether an applicant has ever been convicted
15 of any offence, and if so, give particulars."

16 This is for the applicant to disclose their
17 convictions at the time?

18 A. Mm-hmm.

19 Q. Then if we scroll down again I think we see some further
20 details requested about how close the school is and the
21 medical practitioner. Then at the bottom of the page,
22 "Certificate by an approved person", and this seems to
23 be somebody who has to certify from their personal
24 knowledge that the:

25 " ... applicant is of good character and a proper

1 person to be entrusted with the care and upbringing of
2 children, that his/her house stands in a good locality,
3 and that it is in good sanitary condition."

4 If we go over the page we see who the approved
5 person would be, and at (3) we see there that it has to
6 be a local medical practitioner, a minister,
7 schoolmaster or a public assistance officer.

8 So this is a form that you found or that the
9 authority found amongst the records --

10 A. Mm-hmm.

11 Q. -- that would have applied at the time?

12 A. Yes.

13 Q. Thank you.

14 I'd like to move forward in time a little bit to the
15 Lothian Regional Council period. Again if I can take
16 you back to Part A of your response, so at
17 EDI-000000073, and this time at page 109. At the bottom
18 of the page there's reference here to a Lothian -- if we
19 can just scroll up a little bit please -- a Lothian
20 Regional Council meeting in November 1976 notes:

21 "Similarly, attention needs to be given to fostering
22 and adoption (particularly for older children) as
23 preferred alternatives to residential care. This would
24 not simply be because they are less costly in financial
25 terms but because no institution, however well provided,

1 is an inadequate substitute for a normal family life and
2 the latter should be available to as many children as
3 possible."

4 So this seems to be at the beginning of the Lothian
5 Regional Council period and suggesting perhaps that
6 foster care is to be preferred?

7 A. Yes, and I think that leads directly from the 1975
8 Children Act, which made the first requirement for
9 safeguarding in relation to foster care. We see as the
10 years go on that there's more of a focus on foster care
11 being particularly preferable to residential large-scale
12 sort of what we would have called List D house -- you
13 know, residential establishments.

14 Q. If we go on in this paragraph, it notes:

15 "At the moment, the department's capacity to recruit
16 foster parents is variable in different parts of the
17 region. Attention should be given to the problem of
18 foster parent recruitment, both where there are
19 disparities and more generally."

20 Then it suggests a number of things:

21 "First, more concentrated campaigns ... and the use
22 of media needs to be considered. Secondly, allowances
23 to foster parents and their method of payment need to be
24 examined, and all possible improvements. Thirdly,
25 attention must be given to the level of support given to

1 foster parents. Breakdowns in placements might be
2 avoided and fewer foster parents drop out if more social
3 work support was available. Fourth, the possibility of
4 developing a professional foster parent scheme, where
5 experienced foster parents are paid a salary in return
6 for caring for difficult children is worth further
7 examination. This would, however, involve increased
8 costs in the short term and may only be possible to
9 implement experimentally at present."

10 There's a reference to a community carers' scheme
11 for adolescents leaving residential care.

12 A. Mm-hmm.

13 Q. That minute seems to suggest a number of things in
14 relation to recruiting and maintaining foster parents.
15 So first of all media campaigns essentially.

16 A. Mm-hmm.

17 Q. Is that something that's still a method today of --

18 A. Absolutely, and probably more robust because there's
19 obviously a high -- it's a highly competitive field and
20 I think particularly when we moved from regions to local
21 authorities, then obviously you're competing with your
22 neighbouring authorities. So we currently do -- we're
23 in the middle of fostering period -- media, radio,
24 newspaper, bus signs, you know, poster, flyers, drop-in
25 sessions as well. I mean, we've had great success from

1 2014 onwards. Obviously dipped in 2021 with the
2 pandemic.

3 Q. Okay.

4 The second issue is about allowances to foster
5 parents and their method of payment need to be examined?

6 A. Yes.

7 Q. Has that been a and continued to be an issue?

8 A. It has continued to be an issue and is an issue
9 nationally through the foster care network. So the
10 Fostering Network campaign for more appropriate
11 allowances. One of the issues historically recently --
12 historically -- has been the disparity between
13 allowances from one Local Authority to another, so
14 people are paying difference allowance rates. That
15 obviously then impacts on the market and the
16 competitiveness. And there's still a -- from a Chief
17 Social Work Officer's point of view, that's something we
18 continue to discuss with the Government in relation to
19 having the same allowances across the country.

20 Q. Third, attention must be given to the level of support
21 to foster parents.

22 A. Mm-hmm.

23 Q. So it appears that it was seen that giving support to
24 a foster parent would encourage recruitment perhaps and
25 then prevent placement breakdown as well?

1 A. Yes.

2 Q. Is that a point that remains valid?

3 A. That still remains valid and when we look at our data
4 for the children we have in residential homes, small
5 homes, we have -- I have since coming into post into the
6 children families been looking at that in relation to
7 the balance of care and there are still more foster care
8 breakdowns and adoption breakdowns than we would like.

9 So we do put in significant supports. I think what
10 we find -- and I've found this elsewhere in my career --
11 is that foster carers will struggle on, but when they
12 get to the point of telling us there's a problem, it's
13 kind of nearly at the end, so we need to try and put in
14 supports that are more easily available as opposed to
15 foster carers having to specifically ask for them and
16 feel that they might be judged on that. But that's
17 still something that requires a lot of attention and
18 we're looking at that again in Edinburgh.

19 Q. Then there was an idea of developing a professional
20 foster parent scheme?

21 A. Mm-hmm.

22 Q. Again, is that something that's presented itself over
23 the years?

24 A. That has and we have had -- we wouldn't call them
25 professional but specialist foster carers. So we have

1 paid foster carers at different levels depending on
2 their skill and ability, particularly with more
3 hard-to-place children with complex needs.

4 One of the challenges is that if you're admitting
5 children to care on an emergency basis, you might use up
6 those resources and not plan the placement for the
7 appropriate child. So again something that -- not only
8 in Edinburgh but in other Local Authorities we've
9 struggled with. Trying to keep those parents that are
10 more skilled and at a higher level of payment and
11 ability for the right child coming along. If that's the
12 only placement you've got that weekend, you know,
13 that -- you then don't want to move a child. But it
14 still is something.

15 And, for a period, independent fostering provided
16 carers of that level or purchased -- you know, wanted to
17 provide carers of that level, but again I think we've
18 found more success probably in our own fostering in
19 terms of knowing them better, assessing their skill and
20 ability, looking at their track record of holding onto
21 and caring for quite complex, challenging children.

22 LADY SMITH: Jackie, could you explain what you mean when
23 you say you might use up your resources and not plan the
24 placement for the appropriate child if it has to be
25 an emergency placement?

1 A. So if you --

2 LADY SMITH: I understand --

3 A. Yes.

4 LADY SMITH: -- if you suddenly have to place a child, the
5 child may have additional needs, or may not. But what's
6 the point you're making in relation to resources?

7 A. So the point is that if you're bringing a child in in
8 an emergency, which I would have to say is the vast
9 majority of the placements historically, then you're
10 placing them with where you have availability as opposed
11 to matching them and knowing their complexity and
12 knowing what the carer can care for.

13 So you would have a basic standard across your
14 fostering resource, but for those ones that you're
15 paying at a higher level, they've done more training,
16 they've had more experience, you might end up using
17 them --

18 LADY SMITH: Even although this is not a child that needs
19 their special skills?

20 A. Yes.

21 LADY SMITH: Thank you.

22 A. And that's just about resourcing, which is why we
23 continue to try and improve our campaigns.

24 What we have looked at recently out of interest in
25 our balance of care work is that we try and protect

1 those foster carers so that we continue to pay them even
2 though they don't have a child. That's one of the
3 things we're looking at. Because if you've not got
4 a placement, you're not getting the payment. So that
5 bit of it, trying to retain them and actually place
6 children that come in in an emergency into some of the
7 more independent places. We use much fewer independent
8 fostering placements than our own, but we could do
9 that -- it's a higher cost, but it would allow you to
10 plan better for children and keep our resource available
11 for those complex cases.

12 MS INNES: Just staying with -- I was going to perhaps touch
13 on it later, but if we deal with it just now. In terms
14 of voluntary organisations --

15 A. Yes.

16 Q. -- you mention in the response that you obviously have
17 used the Scotland Excel framework.

18 A. (Witness nodded)

19 Q. I think there was a suggestion that you might be moving
20 away from that?

21 A. We used the Scotland Excel framework until 2017 and then
22 we moved away from it and we got approval for that
23 through committee. There was obviously some question
24 raised by Scotland Excel to ourselves at the time as to
25 why we were moving away from it and our head of

1 procurement at the time wrote to them -- I've seen the
2 correspondence, because I knew this question might come
3 up -- and our position was that we already had
4 a framework for those providers near and around
5 Edinburgh who didn't necessarily cover national --
6 didn't provide national coverage. And the main issue
7 was that the Excel framework had to be fairly generic in
8 order to cover all of the provision and less specific,
9 whereas we felt we could -- and we have had very good
10 feedback from both the carers, the services and social
11 workers placing -- that we could have more of a tailored
12 placement appropriate to the needs of the children
13 because we had a fewer amount that we were in control of
14 and they contracted with us.

15 Q. So you --

16 A. So there was that bit about a generic framework doesn't
17 give you much ability to do the contract management and
18 say well that standard's not good enough, whereas a more
19 specific framework per child -- because that's the other
20 thing, children will have different needs, you'll be
21 asking for different types of intervention perhaps,
22 particularly things like independent fostering or
23 voluntary fostering who provide play therapy or
24 psychological support.

25 LADY SMITH: Are you telling me that the problem with the

1 framework in your experience was it prevented you using,
2 for example, an agency not within the framework --

3 A. (Witness nodded)

4 LADY SMITH: -- that at a particular time had foster carers
5 with particular specialist skills you needed for
6 an individual child.

7 A. Exactly, it was too restrictive.

8 LADY SMITH: Thank you.

9 MS INNES: Thank you, Jackie.

10 If we can move on, please, to -- yes, we're at
11 EDI-000000073, page 111, there the Local Authority are
12 setting out some developments and reports over time, but
13 if we can move to the 1980s, so there's reference there
14 to a director of social care report of 1981/1982,
15 entitled, "Finding homes for children in care":

16 " ... noted the progress made in finding homes for
17 children in recent years, the number of children still
18 waiting for placements, new initiatives to tackle the
19 problem of this and plans to meet the commitments for
20 older children in care."

21 Then it says:

22 "The director recommended that the committee adopts
23 a policy that the department should work to an explicit
24 target of no child under 12 years remaining in our Local
25 Authority's care for more than two years without there

1 being a firm commitment either to his return to his
2 natural family home or to his resettlement with
3 a permanent substitute family within that timescale."

4 Then there's issues again about resourcing.

5 A. Mm-hmm.

6 Q. Then just below that there's reference to a policy
7 called "Time of change". Can you tell us a little bit
8 about that?

9 A. Yes. I think that was kind of a sea change in terms of
10 not just putting the principle that foster care should
11 be preferable, particularly for younger children, but
12 actually reviewing the provision of residential care and
13 reducing that significantly so that there were smaller
14 homes, less placements in residential and increasing the
15 effort to recruit foster carers.

16 Q. At that time, it's really to do with residential care,
17 but is that the time that Lothian shut down a number
18 of --

19 A. Yes.

20 Q. -- residential homes?

21 A. Yes. And that was all illustrated in committee reports
22 in terms of the rationale for that and the reduction.
23 And in fact when I was reading it the other day,
24 I actually worked in one of those homes when I was
25 a student social worker, so it made me feel very old.

1 Q. Okay. If we move on then to something slightly
2 different, but still in the Lothian Regional Council
3 period. We've heard evidence from other sources from
4 experts that a report was published in I think
5 September 1993 called, "Listen - Take Seriously What
6 They Say".

7 If we look on, please, to page 120 of this document,
8 at the bottom of the page. At (g) there's a question:

9 "Were any changes in culture driven by internal
10 influences, incidents, experiences or events within the
11 Local Authority or any of the foster care placements?"

12 It's noted:

13 "In 1992 a male residential childcare worker was
14 convicted of sexual offences ..."

15 And:

16 "Four of the women giving evidence indicated that
17 they had reported the abuse to staff at the time."

18 A. Mm-hmm.

19 Q. Then it's noted below that:

20 "In 1993 the director of social work commissioned
21 a report by Sheriff Alan Finlayson and Alison Newman,
22 which was called Listen - Take Seriously What They Say,
23 to review procedural changes that were introduced to the
24 social work department."

25 Is it your understanding that that conviction then

1 gave rise to this report?

2 A. It's the trigger to that piece of work, yes.

3 Q. Okay, thank you.

4 If we can look, please, at EDI-000000687. This is
5 the report, which says it's:

6 "A review of present and planned arrangements for
7 responding to complaints from young people in care with
8 recommendations for further action."

9 If we scroll down, I think we see it's September
10 1993.

11 A. Yes.

12 Q. If we can move on, please, to page 5, and the remit is
13 set out there.

14 It says that they were appointed at the end of
15 August 1992 by the director of social work of Lothian
16 Region, and the remit was:

17 "To review the recent changes already introduced to
18 the social work department's complaints procedures, the
19 further changes now proposed with a view to advising the
20 social work committee on the effectiveness of the
21 arrangements for dealing with complaints from young
22 people in care. The task to be undertaken in the
23 context of comments made by Lord Caplan at the close of
24 the trial ..."

25 In the next paragraph do we see that it says:

1 "This report looks at the children and young people
2 in the care of the Lothian Region social work department
3 and residing in residential units ..."

4 A. Mm-hmm.

5 Q. It says:

6 "We have not been asked to consider young people in
7 foster care, although much of what we write about the
8 handling of complaints would apply equally to them."

9 A. Mm-hmm.

10 Q. Again I assume you have had an opportunity or have some
11 awareness --

12 A. Yes.

13 Q. -- of this report?

14 If I can take you to some aspects of it, at page 12,
15 at the bottom of the page, there's a heading, "Knowledge
16 of abuse including abuse in care" and I think we see
17 there that it notes:

18 "At this time [so September 1993] practitioners at
19 every level from director to temporary unqualified
20 worker must now be well aware that very many children
21 are the victims of abuse and inappropriate behaviour.
22 The media remind us of this daily, they make it clear
23 that abuse is not restricted to children living in their
24 own homes and the actual incidence of sexual
25 interference with children in care is much higher than

1 was ever previously imagined."

2 That seems to be a reflection at the time in 1993.

3 A. (Witness nodded)

4 Q. What would you say about the level of awareness of
5 social work staff about the possibility or risk of abuse
6 happening in care, in foster care particularly?

7 A. I think it was significantly less than it would be now
8 and in the last decade or so, more than that. I think
9 what the report highlighted was the fact that children
10 not just not heard but, you know, police were not
11 referred to enough.

12 Also, I think one of the particular things that
13 jumps out for me in this is the record keeping, so if
14 disciplinary action is taken against particularly
15 residential carers -- because foster carers aren't our
16 employees but the same would apply -- if it's not upheld
17 and they leave, the record isn't retained, so there's no
18 read-across in history, even within a short timescale,
19 about maybe the same member of staff being complained
20 about repeatedly.

21 It does note that there's several instances and
22 allegations and that people aren't seeing the whole
23 picture.

24 Q. Yes. So allegations that are maybe not being recorded
25 all in the same --

1 A. Or they have been looked at very separately and not
2 pulled together, and if you've -- if the records aren't
3 kept, then you have no way of correlating that unless
4 you obviously are aware of that carer and you know the
5 case or whatever, but it is a feature. You'll see it's
6 a feature in the complaints raised in Part D in relation
7 to the numbers of allegations before actually action was
8 taken.

9 Q. You mentioned that this would read across to foster
10 care. Can you expand on that a little? How would you
11 guard against that?

12 A. Well, I think if the complaints are of a similar nature,
13 which we know that they would be, so there's the same --
14 well, potentially higher risk to foster children in
15 foster care, potentially more isolated is what I mean,
16 then it would be the same. So if they're not engaging
17 the police, not doing an independent review or
18 inspection of that complaint, then you're not listening
19 to the child particularly. And, you know, you -- it's
20 a feature that I've seen not just in Edinburgh but
21 obviously elsewhere historically.

22 So it would be the same impact in terms of the
23 outcome of following up complaints for foster carers.

24 Q. If we can go on, please, to page 49, where it is dealing
25 with possible reasons why young people do not complain.

1 If we scroll down a little. It sets out various
2 reasons why young people don't complain.

3 So perhaps they have nothing to complain about would
4 be one of the options.

5 They don't recognise that they have a complaint,
6 because they don't have enough understanding of what
7 kind of quality to expect.

8 They don't know how to make a complaint.

9 A. Mm-hmm.

10 Q. They're afraid to complain.

11 A. Mm-hmm.

12 Q. They fear they may not be believed and there will be
13 uncertain and uncontrolled consequences for themselves.

14 5:

15 "Young people do complain to staff and these
16 complaints are being edited out and not heard properly."

17 I'm just going to come to the informal and formality
18 in a moment at point 6, but those points there, 2 to 5,
19 would those remain valid, are those things that it's
20 important to be aware of?

21 A. Yes, I think they would be.

22 Obviously we put in processes and supports so that
23 young people are aware of the complaints progress, got
24 Who Cares? workers to support them and that's been for
25 some number of years, so they've got that,

1 an independent view.

2 Q. Then at 6 it says:

3 "Young people's complaints are being resolved
4 informally and satisfactorily at an early stage without
5 resort to formal complaints procedures."

6 Then it goes on:

7 "We think that those who struggle to find
8 an operational definition of a complaint are dealing
9 with a real problem. It is not helpful to isolate
10 complaints as something which can only be dealt with in
11 a formal complaints procedure format -- the response
12 which could be caricatured as 'I am not dealing with
13 this, if you have a complaint to make, use the
14 complaints procedure'."

15 I just wanted to ask you a little bit about that.
16 Is there a danger in what's highlighted here, that
17 something is not recognised as a formal complaint that
18 has to be dealt with in a formal process, but can be
19 dealt with informally?

20 A. I think it's quite a risk. I think it's quite
21 interesting, I get a quarterly report from Who Cares? in
22 relation to what they've engaged with in the children
23 and young people's forums and the units they visit, and
24 they're all valid but it may be something like, "I don't
25 like my school bag", so that wouldn't be required to be

1 dealt with in a formal complaints process, but certainly
2 any complaint in relation to what we would term the
3 range of child abuse should be dealt with formally and
4 not be re -- I mean obviously a response given to -- our
5 expectation is that children would be spoken to about
6 the complaint and that they would be briefed about what
7 we were going to do and that it would be dealt with
8 formally.

9 It doesn't -- my professional view -- one of the
10 issues that wasn't covered on the previous page is that
11 quite often children will retract a complaint, and you
12 can understand the reasons for that, particularly if
13 they feel that -- you know, the people around them that
14 are caring for them are actually in a position of power.
15 But even if they retract, we should continue that
16 complaint. So that does -- it doesn't mean that I think
17 you do need to be much -- well, we have been clearer in
18 terms of formal complaints and the complaints procedure.

19 LADY SMITH: One of the major problems is that the child may
20 retract it because they've been threatened.

21 A. Yes. Or even an implied threat, you know --

22 LADY SMITH: They feel they've been threatened, yes.

23 A. Yes.

24 MS INNES: If we can move on to the conclusion of this
25 report -- sorry, at 58. I expect that Mr Taylor can

1 read my mind. Page 58, the conclusion.

2 It notes there the context of the report, so the
3 High Court trial exemplified graphically and
4 frighteningly how easy it can be for members of staff to
5 abuse the trust of the department and more particularly
6 children can be in their care:

7 "The events of the trial and our subsequent enquiry
8 similarly exemplified the complexity of the issues and
9 the fact that no simplistic solutions are available."

10 Then it says:

11 "In this case, some children were heard and some
12 ineffective action was taken based on what they said
13 (The inconclusive disciplinary proceedings) ..."

14 I think that's what you mentioned as well as
15 an issue?

16 A. Mm.

17 Q. So what happens if in the context of a foster care
18 setting an allegation is unsubstantiated or
19 inconclusive?

20 A. I think that's where you'll see that you might have one,
21 two, three allegations, and it is quite difficult, and
22 particularly in foster care because you've maybe only
23 got the one child, whereas in residential you might have
24 several children who are able to account or talk to the
25 same experience. And quite often we're -- well,

1 sometimes we're unable to take a conclusive position.
2 But what's reassuring is that we don't have the same
3 burden of proof as, say, the police would have in
4 an investigation, so I was heartened to see that we did
5 de-register foster carers even where there was no
6 substantive evidence, but a concern about certainly
7 a repeated nature or just the account of the child being
8 heard and listened to and therefore being moved to
9 another placement.

10 Obviously one of the difficulties as we know is that
11 children will provide detail of their experience once
12 they've moved on from that placement, so you need to go
13 back and look.

14 Q. The next sentence here says:

15 "Some children were heard but not listened to in
16 respect that what they had said was brushed aside as
17 being of little consequence or credibility and nothing
18 was done ..."

19 Again that's an issue, hearing children and actually
20 listening to them.

21 A. It is, and I think if you see the range of complaints
22 over the years, you see how that earlier on was more
23 likely the effect and you see it improving with
24 different procedures coming in, like our initial
25 referral discussions came in over 22 years ago and have

1 developed, therefore, that there's more of
2 a multi-agency view about children's complaints, the
3 nature of that complaint, the follow up,
4 an investigation.

5 Q. Then the next point is:

6 "Some children were heard originally but when they
7 (for whatever reason and with whatever relief for staff)
8 subsequently withdrew what they said, that ended the
9 matter ..."

10 That's the point that you made earlier?

11 A. Mm-hmm.

12 Q. "Some children though anxious and upset did not speak --
13 they could not be heard. No one picked up the
14 unarticulated concerns."

15 So, again, the unreported --

16 A. Yeah, and I think that for me reflects directly to the
17 practice in social work where you should be observing
18 children's non-verbal cues and their presentation, their
19 emotional presentation in terms of indicating how they
20 are being cared for or how happy or not they are in
21 placement.

22 Q. The report writers go on to ask whether the four areas
23 of concern, those four areas, I think, might still be
24 present today.

25 A. Mm-hmm.

1 Q. I think there was some pessimism in relation to that,
2 but in the next paragraph:

3 "Quite apart from cultural changes, the director of
4 social work points to a number of practical developments
5 which have taken place today which makes it less likely
6 that the situations which arose in regard to the trial
7 would recur today."

8 Then they say:

9 "While being wary of this report being seen as
10 a whitewash (the term used by one of our respondents),
11 our general view is that much has changed and that the
12 incidents which gave rise to the High Court trial would
13 be much more likely now to be dealt with more
14 positively. Our basic reason for reaching that
15 conclusion is that children are now much more likely to
16 be heard and what they say acted upon constructively."

17 So that seemed to be the impression of the report
18 writers at the time.

19 A. Mm-hmm.

20 Q. If we can just finally look at the recommendations at
21 page 59, I think we see a number of recommendations that
22 they highlight. For example, at 2:

23 "The need for a consistent departmental policy and
24 practice in relation to record keeping ..."

25 A. Mm-hmm.

1 Q. Although it's referenced to residential care, I think
2 you said that would --

3 A. Yes.

4 Q. -- translate across to foster care as well. And:
5 "A recognition of the need for the department to
6 maintain sensitive information on staff which at present
7 they are not permitted to retain."
8 Was that the point that you made in relation to
9 somebody leaving a job --

10 A. Yes.

11 Q. -- and then --

12 A. And our procedure now and for the previous in relation
13 to residential workers, because obviously they're
14 members of staff, they're employed by us, they've got
15 a contractual -- is that we retain their records for
16 50 years. And about six years ago for fostering, we
17 previously had a sort of complaint register, as
18 I referred to I think earlier. We've moved on to if
19 people are de-registered, particularly in relation to
20 a complaint or an incident, then we keep those files.

21 Q. How long do you keep them for?

22 A. Well, for -- there's no specific guidance in the
23 retention of files legislation or regulations, but we
24 keep them until they're -- you know, those foster;
25 carers are most likely dead. We've kept them. But

1 that's only six years that we've been doing that much
2 more specifically.

3 Q. If somebody had been a carer with you and had been
4 de-registered and then went to another Local Authority
5 or perhaps went to England or vice versa, how do you
6 access that material --

7 A. So the --

8 Q. -- if the foster carer doesn't volunteer that they were
9 once a carer with another authority?

10 A. Well, you can't. I mean, they should -- they would be
11 asked what their previous Local Authority residence was
12 and how long they've lived in different addresses, so we
13 will receive from West Lothian, Aberdeen, sometimes
14 England -- but very rarely England -- a request for
15 a Local Authority check to be done on a couple, we would
16 check our systems at that point and share the
17 information. But that obviously is reliant -- this is
18 not risk free, that's reliant on the foster carer being
19 honest about their previous residence.

20 LADY SMITH: Should there be a central Scottish register?

21 A. I think all the learning from this so far would indicate
22 that that would be helpful. I mean, that wouldn't
23 extend to -- certainly in my past we had a -- it wasn't
24 a -- it was a voluntary organisation, but the foster
25 carer had been a foster carer in London and had moved to

1 Scotland and then perpetrated significant abuse. So
2 I think a central register would be absolutely
3 essential.

4 LADY SMITH: Obviously it couldn't keep a lot of sensitive
5 information, but it could have the fact of registration
6 and de-registration.

7 A. Yes, and the Local Authority who had it at that point,
8 and that points you back in the right direction.

9 LADY SMITH: Yes.

10 A. And it would be another check for people who were
11 applying again. It wouldn't just be for those, you
12 know, in the process, it would be previous.

13 LADY SMITH: Yes.

14 MS INNES: Thank you. We can leave this document now and if
15 we can go back to your Part A response again to
16 page 112.

17 Again this is moving on in the 1990s, so at the
18 bottom -- I think if we start -- oh, yes, sorry. So the
19 middle of the page, there's a paragraph:

20 "The same Lothian Regional Council meeting was
21 taking place ..."

22 This is in 1994?

23 A. Mm-hmm.

24 Q. " ... noted that work was taking place to develop
25 quality standards for adoption and fostering practice."

1 Do you know if Lothian developed its own quality
2 standards?

3 A. It did, in 1995. Quite detailed standards actually,
4 I was quite impressed. But obviously policy and
5 procedures are only as good as you apply them, but, yes,
6 it was in great detail. Particularly for that time,
7 I think, at that time in the history.

8 Q. If we could look, please, at EDI-000000706. If we
9 scroll down, I think we see that this is Lothian
10 Regional Council's "Quality in Care Standards for the
11 Adoption and Fostering Services".

12 A. Yes.

13 Q. I think these are the standards that you referred to.

14 A. Mm-hmm.

15 Q. If we can move on to page 3, and we see there that in
16 the first paragraph it says:

17 "These standards were adopted by Lothian Regional
18 Council in June 1995."

19 It looks as though the Council were preparing sets
20 of standard documents for specific areas --

21 A. Mm-hmm.

22 Q. -- but this is for adoption and fostering.

23 Then in the next paragraph it notes:

24 "These are based on the experience and knowledge of
25 staff, carers and agencies locally and on nationally

1 agreed values and expertise in the area."

2 Do you know what sources the Local Authority used to
3 collate these standards?

4 A. I'm not, actually, I don't. I'm not aware of that at
5 the time. I do know there was reference to them
6 building on the Children's Act 1989, which actually only
7 applied to England and Wales. But that there was
8 a direct correlation between that and learning from that
9 to see what there should be in the standards before we
10 actually moved in to having the Children's Act 1995 in
11 Scotland.

12 Q. Okay. If we look onto page 4, this is slightly unclear
13 but it's the contents page. I think we can see:

14 "Child's experience."

15 Then there are a whole list of things under that.
16 Then service providers at the bottom: eligibility to
17 adopt and foster, and relationships and suchlike.

18 Then onto the next page, which seem to be standards
19 in relation to various specific areas of the
20 environment.

21 A. Mm-hmm.

22 Q. Then at 4, "Agency responsibilities", so a number of
23 headings under there.

24 If we can perhaps just look at some of the standards
25 so, for example page 27. Here I think we see the

1 activity is the safety of children adopted or in foster
2 care and the standard is:

3 "A child or young person feels safe and secure and
4 is protected from harm, including self-harm."

5 Below that there is a number of bullet points which
6 are indicators, it's said, which we can see various
7 headings about how children might be protected.

8 Then at the bottom under "Basis", I think there is
9 reference to various documents which I assume fed into
10 that particular standard.

11 A. Mm-hmm.

12 Q. For example, something called "Lothian Children's Family
13 Charter", "Another Kind of Home" report, "Scotland's
14 Children", "Child protection guidelines" and "Foster
15 care handbook". Then if we scroll down again, we have
16 "Outcomes":

17 "Children enjoy a sense of safety and security and
18 are kept safe from personal abuse and injury."

19 Is this the sort of pattern, that each standard set
20 out?

21 A. Yes. And I think to your earlier question in terms of
22 on what basis they developed this, it would be from
23 reports like "Another Kind of Home" and "Scotland's
24 Children", which reported on obviously where the care
25 was not optimum and what we would be looking for for our

1 children in Scotland. So that would be -- they're set
2 out like that in terms of outcomes. What indicators you
3 should be looking for to ensure that that standard is,
4 as far as you can judge, being maintained and kept.

5 Q. Then we saw that there were different section to this?

6 A. Yes.

7 Q. If we go on to 30, I think we see an example of
8 a standard applying to carers --

9 A. Mm-hmm.

10 Q. -- and carer and child relationships. So the standard
11 is:

12 "Carers have an awareness of the needs of each
13 individual child and an ability to create a warm, safe
14 and caring environment where the child can feel secure
15 and which enhances the child's development."

16 Then there's various indicators again under that.

17 For example:

18 "Each child is treated with respect and dignity as
19 an individual ..."

20 And various other --

21 A. Yes.

22 Q. -- detailed points.

23 If we scroll down again, we see the sources. Again,
24 similar. And "Outcomes":

25 "For the child to experience a warm, safe and caring

1 relationship with the carer and the security necessary
2 to enhance his or her development."

3 So that's an example of the type of standard that
4 applied to carers.

5 A. Yes, and I think the important bit here, which is not
6 explicit in the standards, is that you would want to use
7 those various indicators as part of your assessment of
8 that family. You know, we get much more detailed
9 guidance than training later on, sort of 1996 to 2009
10 and beyond, in relation to that, what we would call
11 a BAAF Form F, you know, the assessment of the home
12 study report. But I think the standards are great and
13 they're really detailed, but the connection to the
14 assessment I thought was potentially at that point not
15 as explicit as it should have been.

16 Q. Yes, because all of these are set out but it's maybe not
17 necessarily clear from the document itself --

18 A. How you use those.

19 Q. -- how you were going to use them?

20 LADY SMITH: So the BAAF Form F --

21 A. Yes, yes.

22 LADY SMITH: That's B-A-A-F, isn't it, for the British
23 Association --

24 A. Adoption and Fostering.

25 LADY SMITH: British Association for Adoption and Fostering,

1 thank you.

2 A. I think that was really what brought all of that history
3 of that -- you know, expectation of assessment together.

4 LADY SMITH: Thank you.

5 MS INNES: Just to give us a sense of the different areas of
6 this document, page 52, we see an example here of agency
7 responsibilities and it is in relation to the assessment
8 and preparation process.

9 A. Mm-hmm.

10 Q. There's issues about timescale and suchlike, and then
11 indicators, and the indicators seem, if we scroll down
12 a little, to set out what's expected in the assessment
13 process.

14 A. Mm-hmm.

15 Q. For example, formal references being taken up --

16 A. Yes.

17 Q. -- and suchlike.

18 This is based, if we scroll down to the bottom, on
19 the regulations, so it's perhaps repeating material
20 that's in the regulations in this document.

21 A. Mm-hmm.

22 Q. Then do you know what then happened with these sorts of
23 standards? Did they fall out of use or were they
24 replaced by anything?

25 A. No, I think they continued to be used and then would be

1 replaced by the later regulations and just tightened up.
2 If you look at the top of that list of expectations, you
3 know five family meetings, I think it became much more
4 intense than that. And I think the practice --
5 particularly BAAF providing a lot of training and
6 guidance nationally at that point in relation to
7 assessment, so it was about setting carers homework,
8 trying to look at -- rather than just talking generally
9 about their experience of childcare, you know, they've
10 got a sister who has a child, whatever, just looking at
11 their own practice, but their own upbringing as well and
12 how that influenced them as potential carers.

13 So it just became more detailed, I would say, that
14 was the beginning part of it and it just got a bit more
15 detailed, more granular. And that was a challenge,
16 I think, sometimes in adhering to the six-month
17 timescale for doing an assessment.

18 Q. Because it's a level of detail --

19 A. If you were doing a good assessment and if you had any
20 doubt during that, then you're more likely to go back
21 and back. I mean, I have been involved in cases where,
22 you know, six, seven months into it you actually say,
23 "We can't put you forward to panel because we don't feel
24 that there's good enough evidence that you would be
25 an appropriate carer".

1 And they're very difficult cases, so you need to
2 have your grounds and your rationale for that.

3 Q. I think in your response there's reference to the City
4 of Edinburgh using independent assessors to carry out
5 that assessment?

6 A. Yes, a lot of Local Authorities did do that, to actually
7 get the assessments done. Because if you were getting
8 that recruitment interest, if you keep people waiting,
9 you know, and you want to start that process. So that's
10 how they approached it, paying independently, as well as
11 obviously your own staff, to increase the number of
12 assessments you could get through in a year.

13 Q. Would there be independent social workers --

14 A. Yes.

15 Q. -- so social work consultants?

16 A. Yes, they would be social work qualified, would need to
17 be.

18 Q. Is that something that still happens or less so?

19 A. It does. We're not doing that at the moment, but I'm
20 sure in the past -- and I can't comment particularly,
21 but I'm sure in the past we have, certainly in other
22 Local Authorities we have, and it will depend on demand
23 and capacity. You know, the argument for additional
24 resource to do that is very easy, because you protect
25 more children, you provide more placements. But the

1 other thing is the sooner you can get them through, then
2 actually that's worth its weight in gold rather than
3 placing a child in a residential establishment, they
4 could go to a family.

5 LADY SMITH: I suppose by using independents, you're also
6 putting in a layer of protection against being unduly
7 pressured to accept parents because, as the Local
8 Authority, you need more bodies --

9 A. Yes.

10 LADY SMITH: -- more homes available.

11 A. Yes --

12 LADY SMITH: Whereas an independent would have a more
13 objective view.

14 A. They do. It tends to sometimes be workers from the
15 actual authority but are working part-time. I know
16 a lot of people who then would take on some additional
17 hours, but it's not full time. Particularly given you
18 need to meet carers at the evenings and weekends, you
19 know, if they're working. So that's usually one of the
20 advantages.

21 LADY SMITH: Thank you.

22 MS INNES: I'd like to move on to something else now and we
23 know from other evidence that there was an Inquiry and
24 a report called Edinburgh's Children.

25 If we can just look at that briefly, please, it's

1 SGV-000024049. I think that we can see that this is the
2 Edinburgh's Children report by Kathleen Marshall,
3 Cathy Jamieson and Alan Finlayson, reported in
4 January 1999. I think again this was sparked by issues
5 in residential care convictions in relation in that
6 setting.

7 But the Inquiry's already heard evidence from
8 Professor Kendrick in relation to the relevant part that
9 relates to foster care, which begins at page 216. I'm
10 not going to go through this again obviously, but if we
11 go to the bottom of page 216, I think we see there
12 reference to the quality standards that we've just
13 looked at?

14 A. Mm.

15 Q. At this time we've moved into the City of Edinburgh
16 period and it's noted that those quality standards that
17 had been devised earlier in the 1990s, those seemed to
18 still be in use --

19 A. Yes.

20 Q. -- by this time, 1998/1999.

21 A. (Witness nodded)

22 Q. It records what's included.

23 If we go on to the next page, I think again we see
24 some reference to the quality standards. For example,
25 at the bottom of page 217. There's reference there to

1 one of the standards in relation to supervision and
2 support. Then again moving on through this section, if
3 we get to page 219, at the bottom of page 219 we see the
4 first recommendation relevant to foster care. That was:

5 " ... investigations in relation to allegations
6 against foster carers be carried out by an independent
7 person with no responsibilities for foster care
8 provision in the area."

9 Do you know if that recommendation was implemented?

10 A. I mean it was -- all of the recommendations were
11 implemented. I think the issue is about sustaining that
12 level of -- so you'll see in the complaints that there
13 were some complaints investigated. I was looking at the
14 dates. Unfortunately, the complaints aren't in
15 chronological order, so apologies for that.

16 There was a previous practice of the foster carer's
17 support worker doing the investigation, going out to
18 speak to the foster carers, so that was clearly not
19 acceptable. And we would then move on to use locality
20 social workers who didn't have a relationship
21 necessarily with that foster carer to do that and then
22 thereafter actually with initial referral discussion and
23 multi-agency approach, you would do a joint
24 investigation with the police, as agreed and discussed
25 in advance.

1 So it was implemented, but I think there were still
2 some missed opportunities it would be fair to say.

3 Q. Then if we go on to the next page, please, 220 and
4 scroll down to recommendation 113, this seems to be
5 focused on concerns that were being expressed by foster
6 carers about children that they were looking after and
7 that they weren't being heard?

8 A. Yes.

9 Q. There was a recommendation that the director of social
10 work evaluate current practice with a view to ensuring
11 that this takes appropriate account of the valuable
12 insights that carers have and may be able to contribute,
13 with regard to the welfare of those children. Do you
14 know if that was taken forward?

15 A. What I would say is that the committee reports that
16 reported on the implementation, the progress of the 123
17 recommendations went on to 2005, at which point they
18 said all had been implemented.

19 What I personally professionally don't know is how
20 they went about that one. I can understand exactly
21 where it comes from, and that would be the foster carers
22 feeling that they're not being given due regard in the
23 future planning for that child. So a foster care who
24 knows the child and -- you know, previously I have had
25 cases where foster carers maybe don't feel that they're

1 being listened to at a planning meeting about what's the
2 right next step for this child or young person.

3 Q. Then the next paragraph, if we just scroll down
4 a little, we see an issue about inspection there.
5 There's reference to foster carers not being subject to
6 the regular informal inspection of ELRIS in the way that
7 residential units are. Do you know what ELRIS is?

8 A. Yes, it was the Edinburgh and Lothian Registration and
9 Inspection Service.

10 Q. Was that a --

11 A. It was a cross-regional -- so it wasn't completely
12 independent, but it was independent from each
13 individual, so it crossed the previous Lothian Region in
14 relation to registering services and inspecting
15 services.

16 Q. Okay.

17 LADY SMITH: Registration of?

18 A. Well, of various -- I think they didn't take in foster
19 care until 2001, when they did a pilot inspection. So
20 although they were in existence, they didn't actually
21 move into registering and inspecting foster care until
22 2001.

23 MS INNES: If we go over the page, please, there was some
24 discussion about -- sorry, I think the director of
25 social work had said that bringing foster care within

1 the inspection process could act as an additional
2 safeguard.

3 A. Mm-hmm.

4 Q. And then there's reference to Kent.

5 A. Yes.

6 Q. And Kent had said if there was an inspection of foster
7 care, perhaps it should concentrate on the arrangements
8 for fostering, but he said:

9 "I would want inspectors to at least meet a sample
10 of carers and children."

11 A. Yes.

12 Q. That seems to be highlighting the issue about what is it
13 that you are inspecting?

14 A. Mm-hmm.

15 Q. Are you inspecting the fostering service or are you
16 inspecting --

17 A. The carers.

18 Q. -- the carers?

19 A. I think obviously the recommendation is much more
20 specific in that all foster placements should be
21 inspected now. I don't think we were ever in a position
22 where all foster placements were inspected, and under
23 the Care Commission again it was a sample that would be
24 taken.

25 Q. We see the recommendation there that the Inquiry endorse

1 Kent's proposal and say all foster care placements
2 should be inspected.

3 A. Mm-hmm.

4 Q. You're interpreting that as meaning the actual foster
5 care placement should be inspected?

6 A. Yes, yes.

7 Q. But you've mentioned a pilot, I think, that ELRIS had in
8 relation to foster care and we'll come --

9 A. To that.

10 Q. -- to that.

11 Just if we move on, please, to page 223, we see, if
12 we scroll down, recommendation 115:

13 "We recommend that field and support social workers
14 should make occasional unannounced visits to foster
15 placements."

16 Do you know if that's something that was
17 implemented?

18 A. It was implemented and it continues to be the case
19 largely that that would be the expectation.

20 Q. How often should an unannounced visit take place?

21 A. At least once a year, that would be ...

22 Q. Then at the bottom of this page I think we see the final
23 recommendation in relation to foster care.

24 A. Mm-hmm.

25 Q. It is talking really about concerns. We can see in the

1 paragraph above that there was a concern about the
2 report and the vulnerability and it says in the final
3 substantive paragraph that we can see before the
4 recommendation:

5 "If we identify foster care as a major area of
6 concern about potential abuse, we might put people off
7 doing the job."

8 A. Mm-hmm.

9 Q. The recommendation seemed to be directed at addressing
10 that.

11 A. Yeah, I think it was addressed at trying to make
12 a balance, so sharing the findings but also
13 acknowledging the worth and the value that's placed on
14 foster care. Which, to be fair, was a very sensitive --
15 sensible request.

16 MS INNES: I'm going to move back to the ELRIS and a couple
17 of other things that came out of this report, but
18 perhaps that might be an appropriate time for a break,
19 my Lady.

20 LADY SMITH: If it works for you, Jackie, we'll take the
21 morning break now --

22 A. Yes, that would be great.

23 LADY SMITH: -- for about 15 minutes and then we will get
24 back to the rest of your evidence.

25 A. Thank you.

1 LADY SMITH: Thank you.

2 (11.32 am)

3 (A short break)

4 (11.46 am)

5 LADY SMITH: Are you ready for us to carry on, Jackie?

6 A. Yes, thank you.

7 LADY SMITH: Thank you.

8 Ms Innes, when you're ready.

9 MS INNES: Thank you, my Lady.

10 Before the break, Jackie, we talked about ELRIS. If
11 we can look, please, at EDI-000000080, page 2. I think
12 we see there that the Local Authority set out some of
13 the background to this?

14 A. Mm-hmm.

15 Q. As you said before, after reorganisation, the four
16 successor authorities to Lothian Regional Council
17 established what they called the Edinburgh and Lothian
18 Registration and Inspection Service to provide
19 an inspection service for successor authorities. There
20 was an attempt, I think, to extend it to foster care
21 after the Kent report and the Edinburgh Inquiry.

22 A. Mm-hmm.

23 Q. If we just look down into the next paragraph, it
24 explains here:

25 "In terms of process, the head of ELRIS reported

1 through the City of Edinburgh Council's director of
2 social work to a joint committee of Edinburgh and the
3 Lothian authorities, from the information available it
4 would appear that a pilot process was run by ELRIS which
5 inspected a sample of foster carers."

6 And two of those have been given to the Inquiry.

7 A. Mm-hmm.

8 Q. We'll have a look at those in a moment. But does the
9 Local Authority understand that any inspection by ELRIS
10 of foster care took place after this pilot or not?

11 A. I think the pilot was 2000 and there was an inspection
12 in 2001. That's the only information I've got.
13 Obviously the Care Commission came in in 2005, so in
14 that gap, I'm not aware.

15 Q. Okay, thank you. Can we look, please, at EDI-000000690.
16 I think we see here that this is a memo dated
17 1 November 2000 --

18 A. Mm-hmm.

19 Q. From James Cox. If we scroll down a little, please, in
20 the first paragraph we see that there are people who
21 were foster parents previously approved. Their names
22 came up as part of the random sample for the fostering
23 service inspection. Their liaison worker requested that
24 they should be left in peace because of the effect of
25 two investigations and an extremely turbulent last

1 placement and it is noted that they'd been on time out
2 for the past 18 months and they were saying that they
3 would no longer foster.

4 He then goes on I think in the next paragraph to say
5 he knows about the last investigation and he says:

6 "There are one or two issues from this that I will
7 mention in the abstract in the general report on
8 fostering services. However, I thought it was also
9 worth bringing some specific suggestions to management
10 attention now, and these are mentioned at the end of the
11 memo."

12 Have you been able to familiarise yourself with the
13 circumstances of this case?

14 A. Yes.

15 Q. If we go perhaps on to the second page, so there's
16 reference to them having been carers, and then page 2,
17 the bullet point there:

18 "In the lead up to the breakdown of his adoptive
19 placement ..."

20 There seemed to be some issues mentioned there. Are
21 you able to summarise what issues arose?

22 A. I think one of the key issues that's repeated elsewhere
23 is at that time there were cases of children in
24 fostering and adoption who didn't have an allocated
25 social worker, so there wasn't the capacity or the

1 capacity wasn't found to allocate them. And obviously
2 this -- just before the move, the social worker I think
3 was unwell, and therefore that might have contributed,
4 I would imagine, to the breakdown or the lack of support
5 for that adoption placement if the social worker wasn't
6 around or available and there was no one stepping in.
7 And even if there were, wouldn't necessarily know the
8 couple or the child well.

9 Q. If we go a little bit further down, a bullet point
10 begins:

11 "On 16 February 1999, Livingstone social work centre
12 received a complaint from a neighbour of the carers from
13 a woman who had said that she had been told that the
14 carer had slapped the child several times. It later
15 emerged that [I think perhaps the carers or their
16 family] and this woman had had a dispute about some
17 money."

18 So there was a dispute with the neighbours. The
19 next paragraph that we see there, it says:

20 "The senior social worker at Livingstone referred
21 the matter to Livingstone Police. Captain's Road social
22 work was not consulted at this point. Normal child
23 protection IRD processes seem to have been missed."

24 Can you explain a little bit about that?

25 A. So the expectation of the IRD going ahead is that that

1 would have been a joint interview with the child and
2 investigation by police and social work. Because that
3 was missed, what's happened is the social worker has
4 gone out on their own and that wouldn't have been, you
5 know, per the kind of suggestion of good practice at
6 that time.

7 And in fact, not only that. It was the support
8 worker for the foster placement, so Susan Good, who went
9 out, as opposed to a social worker within the locality
10 who would have been somewhat more independent.

11 LADY SMITH: When you said "on their own", do you mean
12 without the police involvement?

13 A. Without the police, yes, sorry.

14 MS INNES: Then at the next bullet point there's reference
15 to a review being held on 17 February, so the next day,
16 and a resource team provided some support to the
17 placement. Then the final sentence there says:

18 "However, the issue of the allegation of slapping
19 was left hanging for several months, despite queries
20 about this from SERT ..."

21 I'm not sure what SERT is.

22 A. I'm not aware, actually.

23 Q. It might be the South East Resource Team.

24 A. It probably is, yes.

25 Q. Despite queries:

1 "... who were unclear what message to give the
2 carer about their current and future status."

3 Then it says:

4 "A joint police interview of the child in relation
5 to this matter did not take place until 20 May 1999 ..."

6 I think we saw the incident was in February, there
7 was an interview in May.

8 " ... by which time he had moved to a residential
9 placement."

10 And he at that point was it says holding to his
11 story of being slapped.

12 A. Yes.

13 Q. Then in the final bullet point I think we see the
14 reference to the issue that you highlighted, so
15 Susan Good had done the follow-up interview on her own
16 and there hadn't been a joint investigation. That had
17 to be then reported to the police and the police decided
18 not to take any further action.

19 A. Mm-hmm, mm-hmm.

20 Q. If we go on to the top of the next page, the author of
21 the report says:

22 "My interpretation is that the social work aspect of
23 this delay was due to the absence of a proper initial
24 referral discussion, the absence of a consecutive
25 allocated worker and a chaotic summer of child

1 protection referrals at Captain's Road Social Work
2 Centre, which also had staff vacancies and awaited
3 a change of PTM at the time. However, the net result
4 was that the child was in foster placement for a further
5 five weeks with the investigation unresolved. This may
6 have been risky for the child. It was certainly
7 stressful for the carers."

8 So those were the various issues I think that the
9 inspector drew together?

10 A. Yes, I think the various issues coming together and
11 I think what's probably important there is that the IRD
12 process had only recently -- I think it came in in 1998.
13 It has developed since then, but that would have been
14 early days of a new process, so I think probably
15 a misunderstanding or a lack of understanding, should
16 I say, a lack of understanding about what was expected.

17 Q. Okay.

18 A. But yes, the five-week issue is particularly concerning.

19 LADY SMITH: But notwithstanding working out exactly what
20 one had to do to follow the IRD process, in the
21 meantime, a child was left --

22 A. Was left in placement, yes.

23 LADY SMITH: Yes.

24 Ms Innes.

25 MS INNES: If we go on to page 4, I think there were some

1 further issues and reports, but I don't think they were
2 perhaps related, I think there was an allegation of
3 a historical matter going back to the carers --

4 A. Mm-hmm, mm-hmm.

5 Q. -- carers' earlier life, pre-fostering.

6 If we go on to page 4, at the summary there there's
7 reference to these carers and what was going on happen
8 with them. It was saying if they were going to carry
9 on, they needed to be reviewed?

10 A. Yes.

11 Q. Then it also says:

12 "A written departmental statement in relation to the
13 ending of the above inquiry seems necessary now for
14 their benefit and to inform any future
15 inquiries/assessments."

16 Even although they were wanting to exit the process,
17 as it were, the inspector seemed to be suggesting this
18 needs to be recorded?

19 A. Yes, and normally -- I mean normal process would be that
20 even if it was their choice to leave, you would still
21 have a review at a panel so you have that audit record
22 of now. From my experience it can be difficult to get
23 the couple to come to that panel, but regardless, you
24 would go ahead and record the circumstances of them
25 taking time out, stepping away, and what led to that.

1 LADY SMITH: It seems obvious that this is an opportunity
2 for learning, isn't it?

3 A. It absolutely was. I mean, whether it was picked up
4 following the email and memo from James Cox is difficult
5 to know. I mean I suppose that's 2001, we had good
6 processes in place, but I think there was still further
7 improvement to be made.

8 LADY SMITH: There must also be always an opportunity for
9 learning when a foster carer decides voluntarily to come
10 off the books, mustn't there?

11 A. Yes.

12 LADY SMITH: Something akin to what we'd call an exit
13 interview --

14 A. Absolutely, yes.

15 LADY SMITH: -- for an employee?

16 Thank you.

17 MS INNES: In the second paragraph that we can see there,
18 the author says:

19 "There are some systemic issues that will draw
20 attention in the fostering services report. These
21 relate for example to the timing, management and
22 conclusion of complaints against carers, the forming and
23 tracking of permanency plans for children in the upper
24 primary years, and the implications for training of
25 carers in management of trauma and aggression."

1 So he's obviously highlighting what he calls
2 systemic issues.

3 A. Yes, and I think that makes the connection to the lack
4 of learning or application of that learning to practice.

5 Q. I think you were able to find another example of
6 an inspection report at EDI-000000698. We see
7 a memorandum dated 16 February 2001, again from
8 James Cox. If we go down a little, it says:

9 "The brief report enclosed is a synthesis of
10 specified sources of information about a randomly
11 sampled fostering arrangement. The report is arranged
12 in sections to allow cross-reference to the UK Standards
13 for Foster Care. Concluding comments can be found at
14 the end, and any recommendations are detailed. The
15 report is sent to the relevant resource team. The
16 allocated liaison workers are requested to share the
17 content with the carer mentioned below."

18 I think in the last document that we looked at,
19 Mr Cox hadn't been able to carry out a full
20 inspection --

21 A. Mm-hmm.

22 Q. -- but thought things were worth highlighting, whereas
23 I think this is an example of a full inspection?

24 A. Yes.

25 Q. It appears that the inspection was being done against

1 the UK Standards for Foster Care at that time.

2 A. Yes.

3 Q. If we go on into the second page, we can see what was
4 involved, so sources of information: interviews with the
5 mother; the child's social worker, there was going to be
6 a new social worker for the child; the carer's social
7 worker; the carer; the carer's daughter, who was six;
8 and access to departmental records.

9 So that seems to be the sources that the inspector
10 used.

11 A. Yes.

12 Q. Then he starts going through various standards and
13 comments, and I think that this was a situation in which
14 a child had been removed from the mother shortly after
15 birth and he sets out the circumstances, I think there
16 was suggestion of a non-accidental injury if we just
17 scroll down a little.

18 A. Mm.

19 Q. He obviously records some information about the move
20 from the mother.

21 A. Mm.

22 Q. If we go on to page 3, below the heading "Care planning
23 and reviews" in the middle of the page, in the italics
24 he says:

25 "There appears to have been adequate, immediate and

1 subsequent planning for [the child] and attempt was made
2 to involve the relevant parties. Standards were met,
3 subject to details below."

4 Then he talks there about the introductions of the
5 child to the carer, the circumstances of the removal.
6 He notes some issues about -- in the second-last
7 paragraph that we can see there about no written
8 minutes, the mother not getting a copy of the section 25
9 form. No independent chair at the initial review, but
10 it was suggested and the mother pointed out an issue
11 with that arrangement, saying that it can feel "...
12 collusive for the carer if the chair is the supervising
13 senior in the case".

14 A. Mm.

15 Q. So this is recording the mother's perspective, that the
16 carer and the Local Authority are seen as one almost.

17 A. Yes.

18 Q. Is that an issue?

19 A. That shouldn't be an issue for some number of -- we've
20 got a very substantive independent reviewing team, quite
21 a large team, and in fact the manager of that team leads
22 the national group in relation to trying to roll that
23 out further across Scotland, so I think we've got in
24 excess of about 30 reviewing officers. Some other
25 larger authorities have maybe got two or three. So that

1 shouldn't happen anymore, but in that occasion it looks
2 like the suggestion is because of the short duration of
3 the arrangement, in other words the emergency of the
4 arrangement -- but that shouldn't happen.

5 And in fact we are looking to make some changes to
6 that reviewing team by removing them from the locality
7 manager, because again you could say there was
8 a conflict of interest, but that's a change we're about
9 to make.

10 Q. If we look on to page 4, there's reference there to
11 matching, and he says:

12 "Standards in this section have been met, subject to
13 details below."

14 In the second he says:

15 "This was an open-ended placement initially, which
16 did not fit with the carer's request for an emergency
17 short-term or respite placement."

18 Then he goes on to say I think it was the carer's
19 second placement:

20 "It did not quite fit with her approval remit. She
21 was approved for ages 2 to 5."

22 This was a baby obviously.

23 A. Mm-hmm.

24 Q. "Since then she has in emergencies been offered children
25 both older and slightly younger than her remit by

1 approval from the sector resource development manager."

2 Does that illustrate some of the issues that you
3 highlighted earlier, that where a child is placed in
4 an emergency, you don't necessarily place with a carer,
5 for example, approved for that age group?

6 A. Yes, and I think the requirement is that if you are
7 doing that, you should notify the Care Inspectorate,
8 would have been then the Care Commission, but that would
9 have come in in 2005 when it was a registered service
10 with the Care Commission -- when they were doing
11 fostering. So that's now for some time been
12 a requirement. If you go beyond either numbers or
13 beyond their remit, that you should make a referral and
14 immediate notification of that to the registry body.

15 LADY SMITH: I can see -- we have talked about this
16 already -- how difficult it might be to get the ideal
17 placement in an emergency.

18 A. Mm-hmm.

19 LADY SMITH: Are foster parents, foster carers, warned when
20 they are going through the application process that
21 although you're interested in what they indicate they
22 would be --

23 A. Mm.

24 LADY SMITH: -- comfortable with, they may be asked to take
25 a child that falls without those parameters?

1 A. I don't think they are, but I have not been as involved
2 in those assessments, but I think what would happen,
3 certainly from my own experience elsewhere, is that you
4 would be looking for availability, and if it was falling
5 outwith, you would have that discussion with the foster
6 carer first for them to agree or not. It wouldn't be
7 mandated on them. It would be about whether they felt
8 able.

9 And it would also reflect maybe the children they've
10 got in placement. So she might have 2 to 5 as her
11 remit, but if she was approved for two children and only
12 had one then you might have more ability to do that.

13 And the other bit would be any recent issues of
14 pressure or stress on that carer in relation to her
15 current caring responsibilities.

16 So all of that should be taken into account and
17 discussed with the carer.

18 LADY SMITH: Just thinking about this case. It did not
19 quite fit with her approval remit -- this was a newborn
20 baby --

21 A. True.

22 LADY SMITH: -- and this carer had gone into the role
23 saying, "I can take two- to five-year-olds". There is
24 a world of difference --

25 A. Absolutely.

1 LADY SMITH: -- between caring for a newborn baby and
2 a two-year-old. Yet it is going to put a carer under
3 considerable pressure if contacted and told, "I know
4 this doesn't fall within your remit, but ..."
5 A. Yes, I think it is very different for a carer --
6 LADY SMITH: Hang on, if you speak --
7 A. -- to say no
8 LADY SMITH: Jackie, if you speak when I'm speaking it's
9 a nightmare for the stenographers.
10 Really difficult for the carer to say no in those
11 circumstances. Whereas if they had been warned in
12 advance, they might be readier to remind them, "I can't
13 do this".
14 A. I think it's also, as you say, a two-year-old's a very
15 different issue from a baby, and they'd been assessed in
16 relation to two, so in their assessment they wouldn't
17 have been discussing the challenges of a newborn baby
18 straight from hospital or an intermediate placement with
19 all the demands that a newborn baby may place and you
20 don't know what that child's like either, you know, at
21 that early stage.
22 I mean you could see if she had a vacancy that that
23 would be easier. I would be more concerned -- it
24 doesn't tell you that, obviously, it just talks about it
25 was outwith her approval remit, but if she had

1 an approval for two children and this was on top of,
2 that would be even more concerning but it doesn't
3 actually illustrate that.

4 But I accept everything you're saying, Lady Smith.
5 It would be very difficult -- I've spoken to foster
6 carers in my history of being a social worker who find
7 it very difficult, because they're -- you know, they
8 want to help children as much as they can.

9 LADY SMITH: I just wondered also whether the language in
10 the -- particularly the last paragraph is the sort of
11 gloss you hope is right, but it doesn't actually tell
12 one an awful lot.

13 A. No.

14 LADY SMITH: Ms Innes.

15 MS INNES: Thank you, my Lady.

16 If we can move on, please, to page 5 of this, at the
17 bottom of the page. There's a heading, "Recording and
18 access to information", so there's obviously a reference
19 there to the minutes issued.

20 A. Mm-hmm.

21 Q. Then the next paragraph it says:

22 "From the carer's perspective, more detailed
23 guidance could usefully be given in a properly updated
24 carer's handbook on what and how carers might be
25 expected to record information. However, it was noted

1 by the resource team that her diary and recording
2 practice was appropriate."

3 It's noted that there might be general
4 recommendations on recording arising from what the carer
5 had said. I assume that foster carers have a handbook,
6 I think we have seen reference to a foster carers'
7 handbook --

8 A. Yes.

9 Q. -- in some of the previous documents that we've looked
10 at. How has that developed over time? Is it a physical
11 book or an online resource?

12 A. We are looking at it being an online resource now, but
13 some foster carers still want a physical book and you
14 can understand that, particularly for younger children.

15 The other thing that is sort of general practice,
16 particularly with those babies, maybe going into early
17 year centres, that you have a diary that you pass back
18 and forth between the carer and the placement where they
19 are during the day, so if there's any indications about
20 not taking a feed, being unsettled, et cetera, that that
21 would -- I think most foster carers probably prefer
22 a physical handbook, but the recording is something
23 slightly different from the handbook.

24 Q. Then if we move on to 7, he has a heading, "Assessment
25 and approval of foster carers", and he says:

1 "Standards in this section have been met, subject to
2 potential improvements detailed below."

3 He's obviously looked back at the assessment of this
4 carer and he says:

5 "All checks were completed. The carer's child was
6 involved in the assessment. There was a time gap
7 between the panel and the confirmation of approval ..."

8 He says:

9 "Approval did not come until four weeks after
10 placement of the first child."

11 A. Mm-hmm.

12 Q. Would that be a concern?

13 A. I think it would be a concern, but I would say it is
14 practice that has happened in previous places I've
15 worked. So as the agency decision maker you would sign
16 off the recommendation of the panel, but you would know
17 soon after panel what the recommendations had been. But
18 you need to sign that off with accordance with the
19 minute, and probably what's happened in this case is the
20 minute hasn't been available, so therefore they're
21 not -- and once you sign off the minute and you accept
22 that recommendation, you then write formally to the
23 foster carer to advise them that they've been accepted.
24 But that is obviously -- there's been a -- and this is
25 again back to probably placement demand.

1 Q. The carer made some comments, as you will see here --

2 A. Yes.

3 Q. -- in relation to the assessment process and first the

4 self-assessment form was off putting. It then says:

5 "Despite the apparent duration and thoroughness of

6 the assessment, the carer's perception is that it is

7 remarkably easy to be approved for such a serious

8 responsibility. 'If you go to the meetings, you are

9 likely to get through' [she says]."

10 A. Mm-hmm.

11 Q. I think he simply notes that --

12 A. Mm-hmm.

13 Q. -- then he says:

14 "However, there is nothing more that could have been

15 done that has been left out relevant to the standards.

16 Gaps relate more to opportunities for ongoing training

17 and development."

18 A. Mm-hmm.

19 Q. He says:

20 "It is also true that many apply to be carers to not

21 stay the course, and it is perhaps healthy for those

22 that prove suitable their perception is that it is not

23 a problematic process."

24 A. I think she's speaking from her experience, but she

25 wouldn't know if there were other carers going through

1 an assessment who were not approved.

2 Q. Then ultimately -- bear with me a moment -- if we move
3 on, please, to the conclusion at page 9, in the
4 conclusion there we see in italics:

5 "This appear to have been a high-quality care
6 arrangement made appropriately in urgent circumstances.
7 From all the available information, the child was well
8 served and looked after in this placement."

9 Just above that, we see that he says that there's
10 a number of general issues about training and health and
11 safety that will be explored elsewhere, I think more
12 generally:

13 "... and there is probably ongoing debate to be had
14 with this carer and her daughter about the age range and
15 duration of future placements."

16 It's interesting that he takes into account the
17 six-year-old's views as well.

18 A. Mm-hmm. I mean the general rule or approach would be
19 that you wouldn't place children older than the
20 daughter. She was six.

21 Q. Yes.

22 A. So she was approved from two to six, but if you had two
23 six-year-olds -- it's more about how that child of the
24 foster carer feels in terms of her position within the
25 family I think as well as maybe having children the same

1 age being more difficult.

2 Q. It depends, I suppose, where the other child has been at
3 school?

4 A. Yes.

5 Q. But they might end up being in school together as well,
6 which might then have an impact on both of them?

7 A. Yes.

8 Q. I think this was the other report that you were able to
9 find relevant to fostering.

10 A. Mm-hmm.

11 Q. It seems that it provides a number of insights that the
12 inspector seems to have gained some insight and then
13 been able to raise some general issues from speaking to,
14 for example, the carer and others directly?

15 A. Yes, and I think the important bit in this for me, other
16 than what we've touched on, was that he also makes --
17 James Cox makes the comment in both those documents
18 around the conclusions of complaints and the management
19 of those complaints and that kind of comes out later in
20 the Care Commission inspections in 2005/2006.

21 Q. As you've said, there was this pilot. The next sort of
22 inspection that you know about would be when the Care
23 Commission started?

24 A. Mm-hmm.

25 Q. Were there any specific issues that arose from that as

1 far as Edinburgh were concerned? You've mentioned there
2 2005/2006.

3 A. Yeah, there were -- the one in 2005 was a pilot and my
4 previous experience in inspecting, when you have new
5 methodology, which would have been for the foster care,
6 because they had only just taken it on, you would
7 usually choose two or three services that you would try
8 that methodology on and tweak it as required in relation
9 to the feedback. So there were weaknesses raised in the
10 2005 in terms of the time delay and that would be about
11 the six months of an assessment. And a backlog of
12 reviews. So the annual reviews not taking place within
13 the year.

14 And I think in the 2006 Care Commission inspection,
15 which was a follow-up to that pilot, so they were
16 looking at the recommendations/requirements they'd made,
17 there were some that had not been fully implemented and
18 some partially implemented.

19 But I think for me, relating to this inquiry, it was
20 quite a contradictory statement -- well, two sides of
21 the same argument. So it concluded in 2006 that the
22 clear procedures and guidance were in place relating to
23 issues or allegations of abuse or complaints, but
24 conversely, senior staff lacked clarity about
25 definitions relating to the range of presenting concerns

1 and complaints, and that kind of relates back to
2 something you said before, and appropriate departmental
3 response. That became apparent, that there was a lack
4 of clarity at a certain level in the organisation around
5 that.

6 Q. Because I think one of the other things that you've
7 provided the Inquiry with that I think followed on the
8 Edinburgh Inquiry was that the Local Authority produced
9 guidance in relation to allegations against carers in
10 2002.

11 A. Mm-hmm.

12 Q. That then, I think, set out a process for what should
13 happen when an allegation is made.

14 A. Mm-hmm.

15 Q. Is it that area that the Care Commission were
16 highlighting as a concern, that there was this process
17 but people didn't know whether they should be accessing
18 it or not?

19 A. I think that it's -- for me it read as if there was
20 a lack of clarity in the definition of what you would
21 include in that process and what you wouldn't. So there
22 wasn't a fine defined -- they weren't clear about the
23 definitions.

24 I would have to say we revised that process -- we've
25 revised it continually. We revised I know last year,

1 because I signed it off, and even then I think there was
2 an interpretation that that process was far more for our
3 employees, ie residential workers, than foster carers,
4 but it applies equally.

5 LADY SMITH: When you're referring to definitions, do you
6 have in mind matters such as what is a complaint that
7 requires to be investigated?

8 A. I think anything of an abusive nature, which obviously
9 ranges in terms of neglect, emotional abuse, physical
10 abuse obviously, sexual abuse. But there may well be
11 other complaints in terms of the lack of warmth or not
12 feeling part of that family which would also require to
13 be investigated, particularly if that's leading to their
14 next -- that should be included in their next review.

15 LADY SMITH: Will there always have to be allowance for
16 a degree of judgement as to what needs to be looked into
17 and what doesn't?

18 A. I think you can't avoid that. But I think the concern
19 is that someone looks at it too narrowly and doesn't
20 open that up. And if you think about the national
21 care -- well, the Health and Social Care Standards now,
22 it's more about the experience of that child in
23 placement and that experience would entail everything,
24 wouldn't it?

25 LADY SMITH: Thank you.

1 MS INNES: Another matter I think that came out of the
2 Edinburgh Inquiry was that you tell us in your response
3 that the concept of a trusted person was introduced.
4 A. Mm-hmm.
5 Q. I wonder if you could look, please, at EDI-000000740,
6 page 3. I think this is an excerpt of your looked-after
7 children procedures, I think, if we go down to the
8 bottom of the page we'll see this is from October 2001.
9 We see a heading:
10 "Trusted person/confidante/additional visitor."
11 It says at 16.1:
12 "As part of the placement processes the child or
13 young person must be asked if they can identify someone
14 in whom they will be able to confide easily and [in
15 bold] who is independent of the placement. The
16 identified person must be confirmed and recorded in the
17 essential core record and placement agreement and at all
18 subsequent reviews. Responsibility for this rests with
19 the chairperson ..."
20 Then at 16.2 we see some provision of what the
21 identified person needs to do or needs to be. They need
22 to be known to and trusted by the child, they need to be
23 aware of and accept the responsibility, they need to be
24 able to communicate effectively with the child, they
25 need to be able to build up trust and confidence if not

1 previously known to the child and be able to
2 appropriately respond, react to and report onward any
3 expression of concern and maintain regular and reliable
4 contact, and then there are considerations of if there
5 are communication issues.

6 If we scroll down again at 16.3 I think we see some
7 examples of who the identified person is likely to be.
8 So it could be a member of their family, it could be the
9 social worker, a friend, a health or education
10 professional and so on.

11 Can you tell us anything more about this, or whether
12 it remained a policy or procedure that was adopted or
13 not?

14 A. I think if I'm being absolutely honest, I can't
15 confidently report on that from that period.
16 Particularly in relation to the specifics of recording
17 that. If that were the case, then it would be in the
18 child's file within their care planning review
19 documentation, which we've not -- we've looked at some,
20 but I don't think we've specifically looked at that.
21 I'm unaware whether the team at the time, two years ago,
22 looked at that specific issue.

23 I know that we -- when I was doing child protection
24 inspections, so 2007 to 2009, although we were
25 inspecting child protection, we would go into schools

1 and we'd regularly ask, usually primary 5 and 7 and
2 S1/S2, whether they had a confidante or who would they
3 speak to if they had a worry. Usually it was things
4 like my neighbour, my friend, my teacher.

5 What we would rely on now in our assessment process
6 around children, whether it's a child protection matter
7 or not, is what their network of support is. So you
8 would base your assessment on whether that child was,
9 say, isolated and not have a network of support, or
10 whether the family had good family connections and spent
11 time with grandmother, that kind of thing. But
12 I couldn't confidently say whether that was -- how that
13 was implemented and how long that sustained.

14 LADY SMITH: Would using a network of support principle,
15 such as you've just referred to, accommodate the child
16 who just does not have a single person that they feel
17 would be a trusted confidante?

18 A. Yes, I think it would. I mean we use it very formally
19 in assessments and probably for the last 12, 15 years
20 and developing, so that -- because obviously every
21 family's different, you're trying to assess risk, so if
22 there is a network of support, whether that's for the
23 parents, the child, then that adds some confidence or
24 optimism that there wouldn't be just as risky. But yes,
25 that can accommodate.

1 LADY SMITH: Not every child --

2 A. No.

3 LADY SMITH: -- has a pre-existing relationship of trust of
4 that sort.

5 A. And I think the challenge in that is also about
6 maintaining regular contact, you know if that's your
7 teacher, well, your teacher changes every year. Or you
8 have 12 teachers or how many classes you have in
9 secondary. So I think it's quite a challenging one.
10 But certainly that aspect of examining a family's
11 network of support and that includes for the child.
12 I mean I know one of the services we often put in when
13 we've felt a child doesn't have that, it would be what
14 we'd call a befriender, who would spend time with that
15 child outwith the family home, et cetera, and that would
16 include foster care if that was the case.

17 LADY SMITH: Thank you.

18 MS INNES: Thank you. I turned off my microphone there.

19 Thank you.

20 We can move on, please, to Part D of your response.

21 This is at EDI-00000095. It's question 5.2 perhaps if
22 we go on to page 4, and at (c), this is the question:

23 "How many complaints have been made in relation to
24 alleged abuse of children in foster care?"

25 You refer back to the file audit that we talked

1 about earlier.

2 A. Mm-hmm.

3 Q. "The Local Authority audited over 230 files relating to
4 foster care to locate complaints. 174 of the files
5 audited were for approved carers and 161 of these
6 carers' files provided placements for children."

7 I think you indicated before that there was
8 a discrepancy between the total number of relevant
9 foster carer files and then foster carers who had
10 actually then gone on to provide care for children.

11 A. Mm.

12 Q. Then it's noted that you:

13 " ... compiled complaints from other sources,
14 including litigation files, de-registration reports and
15 the complaints list created by the social work
16 department. From the information available, the Local
17 Authority has located 126 complaints in total relating
18 to the alleged abuse of children in foster care."

19 Then you divide it over the relevant periods that
20 we've talked about. So 1 going back to the 1930 to 1975
21 period, 82 in relation to the period of the Regional
22 Council and 43 to the period of the City of Edinburgh
23 Council.

24 Just in terms of the Lothian Regional Council
25 period, obviously that covered what is now East and West

1 Lothian and Midlothian.

2 A. Mm-hmm.

3 Q. Did these complaints relate to carers and children from
4 those areas or only the City of Edinburgh?

5 A. I'm not actually aware of that but I would imagine that
6 they would have focused on the City of Edinburgh carers,
7 so therefore I would assume that the 82 were City of
8 Edinburgh carers. I think the other thing that is
9 important is when the region broke up -- and it was the
10 same with Strathclyde when I was there -- because
11 obviously the region was a larger area and you had
12 foster carers in other Local Authorities that became
13 extinct, foster carers were asked whether they wanted to
14 remain with Glasgow City or Edinburgh City, even if they
15 lived in Midlothian or West Lothian, and quite a number
16 of them did because that's the team they knew, that was
17 the area they knew, so that's why we still have a sort
18 of legacy of carers outwith the city.

19 LADY SMITH: That, as I've heard, caused a knock-on
20 difficulty for the new --

21 A. It did.

22 LADY SMITH: -- smaller councils, who were derived of the
23 carers that had previously been taking children in their
24 area.

25 A. It did. And having been in one of those smaller

1 councils, we worked hard to bring them across to us,
2 through predominantly providing increased support.

3 LADY SMITH: Thank you.

4 MS INNES: These were the number of complaints that you
5 found, and I think you've noted in your response that
6 you found some convictions --

7 A. Mm-hmm.

8 Q. -- of foster carers. I'd like to look at those with you
9 now, if I may.

10 A. Mm-hmm.

11 Q. First of all you refer to a conviction of
12 a James Farquhar. If we look first of all at his
13 conviction, it's at JUS-000000086. I think we see here
14 the indictment and we see that there were charges on the
15 first page, the first going back to between 1986 and
16 1987, the same in the second, both in respect of lewd
17 and libidinous practices, but in respect of different
18 complainers.

19 A. Mm.

20 Q. Then at (3) there's another charge there in respect of
21 various occasions in 1988 and there's reference,
22 I think, to another complainer at that point.

23 A. Mm.

24 Q. Then if we go over the page, I think the fourth charge
25 that we see there is in relation to again between 1988

1 and 1991, and again lewd and libidinous practices.

2 A. (Witness nodded)

3 Q. There is a fifth charge there, but my understanding is
4 that he wasn't convicted in respect of that matter.

5 A. Mm-hmm.

6 Q. I think it was withdrawn -- the libel was withdrawn in
7 respect of that charge.

8 A. (Witness nodded)

9 Q. If we go on, please, to page 5, I think we see some
10 details of the trial, which took place on 22 to
11 25 March 1999. The accused pled not guilty. If we
12 scroll down a little, we see the verdict:

13 "The jury by a majority found him guilty as libelled
14 on charges 1 and 2, by a majority guilty on charge 3."

15 And that it wasn't various occasions, it was on one
16 occasion, they found.

17 Then on charge 4, by a majority again, moving from
18 various occasions to one occasion, and he was thereafter
19 sentenced to a period of imprisonment.

20 A. Mm.

21 Q. You deal with this conviction at various points of your
22 response. If I can take you to one of those, please, so
23 EDI-000000097, which I can't now find. Just bear with
24 me a moment. (Pause)

25 Apologies, I had closed the document down.

1 EDI-000000097, and if we go to pages 8 to 10,
2 I think we see if we scroll down the page reference to
3 Mr Farquhar. Then there is some material about dates
4 when he was known or alleged to have abused children.
5 It says:

6 "Three allegations of abuse were made against this
7 foster carer. The first allegation was made in
8 July 1987 ..."

9 Do you know what happened with that allegation?

10 A. I think it wasn't upheld or no further action was taken
11 in relation to that one, and the second one as well.

12 Q. The second one, we'll go onto the next page -- which
13 I think confirms what you've just said -- in a moment,
14 but if we stay at allegation 2:

15 "The second allegation was made in June 1993 by
16 a child in placement with the foster carer in relation
17 to sexual abuse committed by him."

18 I think you said a moment ago that you don't think
19 that allegation was upheld?

20 A. Was upheld. Well, no further action was taken.

21 Q. Okay.

22 Then a third allegation was made in January 1998 by
23 a child who had previously been in placement with the
24 him.

25 A. (Witness nodded)

1 Q. Was action taken at that stage?

2 A. Yes. I mean, the couple were only de-registered after
3 that third allegation.

4 Q. If we look at the bottom of -- at (c)(iii), there's
5 reference there to Mr Farquhar having been registered as
6 a foster carer from 1984 up to January 1998 and they had
7 36 placements.

8 A. (Witness nodded)

9 Q. If we go on to the next page, please, it says there at
10 the top of the page:

11 "The Local Authority assisted the police in their
12 investigations and provided the file to the Procurator
13 Fiscal following the allegations made in 1998."

14 You don't have access to the file to ascertain what
15 checks were made in relation to this foster carer as the
16 Procurator Fiscal still holds this information. The
17 Local Authority asked to have the file returned but that
18 hadn't happened.

19 Is that still the position, that you don't have
20 files in relation to him --

21 A. That's still the position and what should have happened
22 is we should have taken a copy of the file before we
23 submitted the actual file to the Crown or the Procurator
24 Fiscal -- sorry, I think I'm working in England now --
25 and that clearly hasn't happened if they've not kept

1 a copy, which is significantly unfortunate.

2 Q. Where were you able to get information from in relation
3 to this conviction and what happened?

4 A. I would imagine within the kind of complaints aspect,
5 but -- and possibly the child's file, but I couldn't be
6 absolutely certain about that.

7 Q. If we scroll down to (d), as you've already noted, after
8 allegations 1 and 2:

9 "The alleged abuser and his wife were permitted to
10 continue as foster carers after the first and the second
11 allegation ..."

12 Do you have any insight into why that was?

13 A. I mean I think given the time frame of that, this was
14 before the Edinburgh Inquiry and I think the comments in
15 the Edinburgh Inquiry probably helped us in
16 understanding that there was a lack of acceptance of the
17 level of abuse that foster carers or individuals could
18 cause to children.

19 I have to say, that's the disappointing thing when
20 you look at the complaints, is how many allegations come
21 through before a final decision is made, and why
22 I commented on the lack of chronology in those, I was
23 looking to see a pattern of whether that was improving.
24 Now I managed to work that out, and I think as the IRD
25 process got clearer and we had independent investigation

1 of cases with police involved as well as not the social
2 worker for the foster carer, you saw a better response.

3 But it's unacceptable, and I think the -- the
4 vulnerability of children in these foster placements is
5 that they're the only one giving that account. And
6 I know in some cases -- and I don't know whether it was
7 this one, sorry, my recollection fails me -- that the
8 police did go back and investigate previous placements.
9 Now, they will have done that, that would be my
10 expectation of what we do, and they'll have done that
11 particularly in relation to trying to charge the man and
12 use the Moorov doctrine in relation to commonality of
13 experience.

14 You can see in the detail given in that indictment
15 that it was very common, it was a very similar pattern
16 of abuse.

17 LADY SMITH: The other striking thing, of course, is how
18 many children had been --

19 A. Placed.

20 LADY SMITH: -- placed in this man's home over the period
21 that he was registered: 36.

22 MS INNES: I think we can see in the next paragraph in
23 relation to the first allegation it says that the
24 allegation was investigated by the social work
25 department and child protection guidelines were

1 followed. The outcome was that no further action was
2 required.

3 A. Mm-hmm.

4 Q. Then in relation to the second allegation, it says that
5 the allegation was investigated by the social work
6 department and the child protection guidelines were
7 followed, but again no further action was required --

8 A. At that point there was also no requirement for an IRD.
9 That came in towards the end of 1998/1999, early stages,
10 so it would have been appropriate at the time that the
11 social work department led that investigation, but
12 that -- luckily that practice has changed.

13 Q. Over the page at page 10 it talks about them not being
14 permitted after the final allegation in 1998 and then he
15 was convicted. Then at (f) it says in relation to
16 allegations 1 and 2 the process of monitoring and
17 supervision that followed was that it was discussed at
18 annual carer reviews.

19 A. (Witness nodded)

20 Q. That's one of the convictions that you referred to.

21 If we stay with this document for a moment, please,
22 can we look to page 3, and at the bottom of the page we
23 see a reference to a John McCafferty, and he was alleged
24 to have abused children between 1976 and 1992.

25 If we go over the page to page 4, we see that at the

1 time this was provided, the Local Authority was unable
2 to complete its audit and hadn't seen or been able to
3 review John McCafferty's file.

4 At (c) (iv) it says that he was arrested, charged and
5 convicted of shameless indecency, which suggests that
6 the information was shared.

7 A. Mm-hmm.

8 Q. At (d) it notes that the allegations were not disclosed
9 until 1992.

10 Have you been able to access any files or material
11 in relation to Mr McCafferty?

12 A. As far as I'm aware, no. That's how it stands.

13 Q. Okay. Can I again ask you to look, please, at his
14 conviction, which is at JUS-000000064. Here I think we
15 see an extract from the High Court at Edinburgh. His
16 conviction, 8 June 1998.

17 A. Mm-hmm.

18 Q. He was sentenced on the same day.

19 Then the offences for which he was sentenced,
20 there's reference to the specific charges, I think, four
21 of shameless indecency. If we scroll down, yes, he was
22 sentenced to ten years in prison.

23 The charges are over the page, so page 2, and the
24 charges of which he was convicted were 3, 4, 5 and 7.
25 If we scroll down, please, we see an allegation again in

1 respect of shameless indecency, October 1976 to 1980.

2 The fourth charge, 1979 to 1982.

3 Then, over the top of the next page, 1987 to 1988,
4 in respect of charge 5.

5 Then at 7, 1989 to 1990.

6 Beyond the material that you've put in the response
7 to section 21, have you been able to uncover any further
8 information about John McCafferty, his career as
9 a foster carer or anything like that?

10 A. Not as far as I'm aware, no.

11 Q. You also, if we go back to EDI-000000097, page 85,
12 you'll see here that there's reference to an abuser who
13 has been -- an alleged abuser has been redacted, there's
14 the cypher ETZ-SPO. There's two, sorry, two people, ETZ
15 and SPO. There's reference at (c) to these people
16 having been specialist foster carers. If we go on to
17 (c), they're noted as having been approved on
18 16 December 2003 and full checks were carried out. If
19 we scroll down the page, I think we see that there was
20 an allegation of sexual abuse made by a child placed
21 with them. The child was removed and then ETZ was later
22 charged and convicted with possession of child
23 pornography.

24 A. Mm-hmm.

25 Q. So he wasn't convicted of the allegation of sexual

1 abuse --

2 A. No.

3 Q. -- he was convicted in respect of possession of child
4 pornography.

5 At the bottom of the page it says:

6 "The Local Authority learned of ETZ's conviction in
7 May 2007 and de-registered him as a foster carer in
8 March 2010. The delay in de-registering them was
9 a result of an administrative oversight, however the
10 Local Authority can confirm that no children were in
11 placement following a disclosure made in 2005."

12 So that original disclosure?

13 A. Yes.

14 Q. It says there that the Local Authority learned of his
15 conviction.

16 A. Yes. I'm not quite sure how to interpret that. Whether
17 that's just whoever's filled that one in. But they
18 would have learnt of his conviction via either the
19 police or the courts and been watching it. But it comes
20 across a wee bit vague, I would suggest.

21 Q. We don't have the precise date of his conviction in
22 an unredacted form that I can refer to, but it was in
23 2006.

24 A. Mm-hmm.

25 Q. It looks like the Local Authority didn't hear

1 immediately --

2 A. No.

3 Q. -- perhaps highlighting one of the issues that you
4 mentioned.

5 A. The delay in de-registration, yes.

6 Q. Another conviction that you've drawn the Inquiry's
7 attention to is referred to at EDI-000000097 again and
8 at page 103. The person there is a Kevin Gillan, who
9 it's noted was -- the relevant dates are between
10 12 May 2010 and 25 June 2013, and he was the son of the
11 foster carer. It notes at that point that the Local
12 Authority was unable to access the file.

13 A. Mm-hmm.

14 Q. Then if we go to (c)(iv), the allegations were reported.

15 A. (Witness nodded)

16 Q. If we can look, please, at his conviction, it's at
17 JUS-000000092. If we scroll down a little, we see he
18 was convicted at Livingstone Sheriff Court on
19 11 June 2015. If we look below that, he was charged in
20 respect of lewd and libidinous practices with a child
21 and under the Sexual Offences Act.

22 If we look on to page 3, I think that we see in
23 respect of charges 1 and 2 there's various amendments,
24 but it notes that he was convicted in respect of sexual
25 offences against a nine-year-old child.

1 A. (Witness nodded)

2 Q. Were you able to find any further information about
3 this? We saw that the Local Authority hadn't been able
4 to access any relevant files in relation to this
5 conviction.

6 A. No. Not as far as I'm aware.

7 Q. Do you know why that would be?

8 A. I mean I think it's in relation to the fact that that
9 was at the point when we were looking at that that the
10 Covid had come in, but I'm not absolutely convinced --
11 I'm not clear whether that's because of that or whether
12 there's no case file.

13 But given those dates, I wouldn't have thought --
14 2013, 2015 ... they should still have been available,
15 I think. The 25 years plus. So whether that's one of
16 the ones that we've just not got to -- because that's
17 the other thing that was said in relation to the 230
18 case files audited. They weren't chronological. So
19 they were from different years.

20 We can certainly find information and come back to
21 you on that.

22 Q. I think it would be helpful --

23 A. Helpful, yes.

24 Q. -- if you could perhaps look for those files and provide
25 any further relevant information that you weren't able

1 to address at the time.

2 A. Happy to do that.

3 Q. I'm particularly interested in whether any learning
4 review was undertaken, any significant case review,
5 because this last conviction that we've looked at, it's
6 relatively recent.

7 A. Mm-hmm.

8 Q. It's between May and June 2013, one of the charges, and
9 the conviction was in 2015. I'm wondering if there was
10 any significant case review and if not why not?

11 A. I don't think there was. There's no evidence to say
12 that there was.

13 In the last -- sort of six years ago -- because
14 I think I referred to earlier, we had a spreadsheet of
15 complaints/convictions or allegations. What we've put
16 in place six years ago, that's before my coming in, was
17 that if there's a complaint and certainly
18 a de-registration, then that would be referred to myself
19 as the Chief Social Work Officer in a significant
20 occurrence notification, and that -- I'm also the chair
21 of the Child Protection Committee, so we would then
22 consider whether there's a requirement for an initial
23 case review or significant case review, what we're now
24 calling learning reviews, the practice has changed.

25 Q. Yes.

1 A. And the other issue is that obviously, as I said, we
2 keep those files.

3 There was something else I was going to say there.

4 I mean, I think we -- so as far as I'm aware, for
5 all of these convictions, there's not been a specific
6 process followed up in terms of a learning review or
7 a significant case review.

8 Q. And --

9 A. And the difficulty with that, sorry, is it might not be
10 located on the file. If that's a process that's
11 undertaken by a committee, a child protection committee.
12 However, I am very familiar with the child protection
13 committee minutes and notes going back some time, not
14 necessarily back to 2015, but certainly some time, that
15 there's no evidence in there that we're aware of.

16 So another -- it's a missed opportunity, to be fair,
17 in my professional view.

18 Q. Because it would be important to examine, you know, in
19 the same way as we discussed earlier, if a carer's
20 de-registered, knowing the reasons, having an exit
21 interview, but here, I suppose much more seriously,
22 people have been convicted of serious offences against
23 children in foster care, and yet no learning, no review
24 seems to have occurred thereafter --

25 A. No obvious evidence of that, no.

1 Q. Can I ask you now, please, to look at Part B of the
2 Local Authority's response, so this is at EDI-000000104.
3 If we scroll down the first page, the question is:
4 "Does the Local Authority accept that over the
5 relevant period any children cared for in foster care
6 were abused?"
7 And the answer to that is yes?
8 A. Mm-hmm.
9 Q. Then you refer to convictions. In terms of page 2,
10 please, can you look at (b):
11 "If so, what is the Local Authority's assessment of
12 the extent and scale?"
13 It says:
14 "The Local Authority accepts that abuse took
15 place ... it has not found evidence of systemic or
16 widespread abuse, but individual cases of abuse when
17 discovered have been investigated by the authority or
18 external agencies."
19 I suppose as we've seen in relation to
20 James Farquhar --
21 A. (Witness nodded)
22 Q. -- perhaps not always with the outcome or the follow up
23 that one might expect?
24 A. I think also though it also probably pertains to some of
25 those complaints in the 126 complaints. There was no

1 police action, but the foster carers were still
2 de-registered in relation to the concerns. So I think
3 that should be reflected in there. It shouldn't just be
4 based on four convictions.

5 Q. Yes.

6 If we move on to page 3, please, and question 3.2:

7 "Does the Local Authority accept that its systems
8 failed to protect children in foster care over the
9 relevant period from abuse?"

10 What's the Local Authority's position in relation to
11 that?

12 A. I mean, obviously, as I said at the very beginning,
13 I didn't sign off the section 21, and I think this is
14 an issue around interpretation of "systemic".

15 So a systemic -- I think it's been taken in the
16 response as "widespread", "across the board". But what
17 I would say in my professional opinion, and I have kind
18 of alluded to, is there's been missed opportunities and
19 the ball dropped at various different points. So not
20 following up after investigations, not having
21 an independent investigation.

22 Some of the issues earlier on across the
23 corporation, Lothian Region, not having all the checks
24 in place, no evidence of the checks all being done.
25 Although one of the things that would be missing there,

1 potentially, is that those checks might be included in
2 the home study report, but not necessarily recorded in
3 the file.

4 So it's a difficult one, but I think it was answered
5 on the base of a widespread total systemic failure. But
6 I think, as we've talked about, James Cox raises issues
7 about systemic issues in his two documents that are
8 submitted and are in the documents that we submitted to
9 you.

10 So I would have to say I would question that being
11 a completely solid answer.

12 You know, if we're talking about learning
13 opportunities and missed opportunities, then there's
14 been failure.

15 Q. Yes, and the systems have failed, I think --

16 A. Uh-huh.

17 Q. -- on occasion.

18 If we look onto the bottom of the page at 3.3, the
19 question here is:

20 "Acknowledgement of failures and deficiencies in
21 response. Does the Local Authority accept that there
22 were any failures and/or deficiencies in its response to
23 abuse and allegations over the relevant period?"

24 If we go on to the next page, this answer is divided
25 into three sections, but I think it essentially says the

1 same thing, which is:

2 "The Local Authority has been unable to source any
3 information suggesting that there were any failures
4 and/or deficiencies in response to abuse or allegations
5 of abuse ..."

6 Having reflected on the material that you've looked
7 at, does that remain the Local Authority's position or
8 not?

9 A. As I read that and read the material that I've obviously
10 spend time going over, I would have to say that there
11 clearly is evidence where the required policy/procedure
12 hasn't been followed on occasion. So it's not
13 widespread, but on occasion we've not done the right
14 thing.

15 So the particular issue, I think -- and it's not
16 necessarily pertaining just to Edinburgh at that
17 point -- would be the issue about what we used to call
18 link workers for foster carers, I think we refer to them
19 as "support workers" here, being the one that follow up
20 the complaint. Completely inappropriate.

21 And that then leads you to wonder the validity of no
22 further action in relation to allegation 1, 2 ...

23 Q. Jackie, you've provided a lot of information to the
24 Inquiry, particularly in your Part D response that
25 you've alluded to, giving further detail of various

1 complaints and suchlike. I know that you've already
2 been asked to return to give evidence to the Inquiry at
3 a later stage, also to enable you to reflect on the
4 evidence of applicants --

5 A. Mm-hmm.

6 Q. -- or any of those against whom allegations have been
7 made or who have been convicted of abuse. I understand
8 that you are happy to come back?

9 A. Yes, happy to come back. I have got a holiday planned,
10 but I will be happy to come back. I'll be back in
11 September.

12 MS INNES: Thank you.

13 LADY SMITH: I'm sure we can work around that.

14 Jackie, I have no further questions for you today at
15 least. Thank you so much for coming here today and
16 thank you for taking on a task which quite a number of
17 other people in your position have had to do, namely
18 coming to give evidence about written responses that
19 were put together before your time in this role.

20 A. Mm-hmm.

21 LADY SMITH: I can see that you've worked hard at absorbing
22 what's been said and thinking professionally and
23 appropriately about it and I'm grateful to you about
24 that.

25 I'm also grateful to you for advancing our learning

1 and understanding.

2 I'm able to let you go to hopefully --

3 A. Thank you.

4 LADY SMITH: -- have a more relaxing time for the rest of
5 the day.

6 A. I plan to meet my daughter, she's going to take my mind
7 of it, but can I just say thank you for the opportunity,
8 because there's still learning now and I think you
9 touched on a couple of things you might have in mind,
10 but certainly in Edinburgh we've also -- I think for me
11 the biggest issue on this is about organisational
12 knowledge. People leave and move. And so I've already
13 made a recommendation that we need to be doing
14 a synopsis of our previous inquiries and the features
15 and themes about them, so that new people coming into
16 Children and Families get that in an acceptable,
17 absorbable manner, because that's one of the things I've
18 learned from through reading through the materials.

19 LADY SMITH: Very glad to hear that, because there are
20 themes in inquiries from nearly 20-odd years ago that
21 are reoccurring again and again and again and are still
22 entirely valid today.

23 Thank you very much.

24 A. Thank you.

25 LADY SMITH: I'm able to let you go.

1 (The witness withdrew)

2 LADY SMITH: That takes us to the lunch break then,
3 Ms Innes, and we return at 2 o'clock to hear from Fife?

4 MS INNES: We do, my Lady.

5 LADY SMITH: Thank you.

6 (1.02 pm)

7 (The luncheon adjournment)

8 (2.00 pm)

9 LADY SMITH: Good afternoon. I understand our witness from
10 Fife Council is here and ready; is that right?

11 MS INNES: Yes, she is, my Lady. Kathy Henwood.

12 LADY SMITH: Thank you.

13 Ms Kathy Henwood (sworn)

14 LADY SMITH: Let me ask you what I hope is an easy question
15 first of all. How you would you like me to address you,
16 Ms Henwood or Kathy? Whatever works for you.

17 A. Kathy's fine, thank you.

18 Can I take my mask off?

19 LADY SMITH: Absolutely, yes.

20 A. Thank you.

21 LADY SMITH: You'll be referred to the written response from
22 your council as we go along, but you'll see the parts
23 that we want you to look at coming up on screen and any
24 other documents that we might ask you to view. If you
25 have any questions or concerns, do let me know. Let me

1 do whatever I can to make it comfortable for you giving
2 evidence. I know it's not easy and it feels quite nerve
3 wracking at first, but I promise you that's not our
4 intention.

5 If it's all right with you, we'll take a break
6 around 3 o'clock, assuming you're still giving evidence
7 then, I think you might be, but otherwise I'll hand you
8 over to Ms Innes just now and she can take it from
9 there. Is that all right?

10 A. Yes, thank you.

11 LADY SMITH: Thank you.

12 Ms Innes.

13 Questions from Ms Innes

14 MS INNES: Thank you, my Lady.

15 Kathy, we understand that you are currently Head of
16 Education and Children's Services and Criminal Justice
17 Services at Fife Council?

18 A. That's correct.

19 Q. You're the Chief Social Work Officer as well?

20 A. That's correct.

21 Q. You've provided the Inquiry with some of your career
22 history. Am I right in thinking that you began working
23 as a social worker in 1990, having previously held some
24 other roles?

25 A. That's correct.

1 Q. You started your career as a social worker in Surrey?

2 A. I did.

3 Q. You then moved to Dumfries and Galloway in 1994, working

4 in child protection?

5 A. That's correct.

6 Q. Then you held various other social work roles, again in

7 England --

8 A. (Witness nodded)

9 Q. -- for a period until 2002?

10 A. That's correct.

11 Q. In 2002 you went to work as a development officer with

12 the Child Protection Committee based in the northeast of

13 Scotland?

14 A. That's correct.

15 Q. Then you worked in management roles with Barnardo's and

16 Children 1st?

17 A. Correct.

18 Q. And in 2014, you moved to Moray Council, initially

19 I think you were working as a Continuing Support Service

20 Manager and then you moved to become Head of Integrated

21 Children's Services there in 2018?

22 A. (Witness nodded)

23 Q. Then in June 2019, you came to your current position at

24 Fife Council?

25 A. That's correct.

1 Q. Thank you.

2 Fife Council, as you know, have provided a response
3 to a section 21 notice served by the Inquiry, and you've
4 been at Fife Council over the relevant period, so
5 perhaps you could just outline before we look at it what
6 approach the Council took to preparing to answer this
7 section 21 notice.

8 A. We put in place a dedicated team and the necessary
9 resources to be able to pull together some structured
10 time to be able to answer the questions and looking with
11 the detail that was required across both archived
12 material and current available material.

13 And as we -- as -- and we invested in that team as
14 we needed to, to ensure that we were giving as much
15 detail as we could to -- and we were able to source the
16 information that was required, recognising the period of
17 time that it was covering, and some of that information
18 was not available but we looked at all available
19 sources.

20 Q. Did you have oversight of that team?

21 A. It was reported to me, yes.

22 Q. Okay, thank you.

23 If we can look, please, at the response, it's at
24 FIC-000000504. It will come up on the screen in front
25 of you. Under "History of the Local Authority", I think

1 we see there that in terms of the period 1930 to 1975,
2 there was Kirkcaldy Town Council and Dunfermline Burgh
3 as well and then Fife County Council?
4 A. That's correct
5 Q. So those three areas were part of what's now Fife
6 Council.
7 A. (Witness nodded).
8 Q. Then from 1975 to 1994 it was Fife Regional Council.
9 And from 1996 to date I think it's been Fife
10 Council?
11 A. Yes, it was Fife Regional Council and then Dunfermline
12 District and a couple of district councils.
13 Q. When there was regionalisation there were district
14 councils, but I think in terms of the function for
15 social work, children and families, fostering, that
16 would have been dealt with at regional council level?
17 A. Regional council.
18 LADY SMITH: I think your response should say "1996" to the
19 present date for Fife Council rather than "1995",
20 shouldn't it? It says from 1995 to present date it's
21 been known as Fife Council, but the statutory change, if
22 I'm remembering it rightly, took place in 1996.
23 MS INNES: Yes, I think it was 1996.
24 A. Okay.
25 Q. It's just it says there where it has been highlighted

1 "1995".

2 LADY SMITH: You weren't working up here then?

3 A. No. I can certainly look and change that if needed,
4 yes.

5 LADY SMITH: I'm sure that's what was meant.

6 There was 1975 and 1996 are the key dates in local
7 government reorganisation up here.

8 A. Thank you.

9 LADY SMITH: Thank you.

10 MS INNES: What I would like to do with you is look at some
11 documents that you've provided to the Inquiry, looking
12 at certain aspects that you've been able to draw out
13 from the archives that you've referred to.

14 First of all, I would like to ask you to look at
15 FIC-000000106. If we scroll down a little, I think we
16 see that this is a healthcare committee, homes
17 subcommittee on 11 September 1945. If we go to the
18 bottom half of the page there's a section, "Boarded-out
19 children". I assume this was one of the documents that
20 you were able to pull from the archives?

21 A. That's correct.

22 Q. We see first of all at (a) there's reference to
23 a circular that had been sent out by the Department of
24 Health reminding education authorities of their
25 functions respecting children committed to their care

1 under the 1937 Act at the time.

2 Then at (b) there's a heading "Regulations" and it
3 says:

4 "Ms Jobson and Mr Isaac, chairman of the education
5 subcommittee, accompanied by officials had met
6 Mr Westwood, Secretary of State for Scotland upon his
7 invitation and Mr Westwood had invited the deputation to
8 give their views respecting improvements, which as
9 a result of experience during the past ten years might
10 be made within the existing regulations. There had
11 ensued a general discussion and interchange of views and
12 experiences."

13 It looks as though there's a meeting here between
14 people from the Local Authority with the Secretary of
15 State in relation to what improvements might be made
16 within the existing regulations at the time. Is that
17 your understanding?

18 A. That's my understanding, yes.

19 Q. Then it says that there was a draft of a letter proposed
20 to be sent to the Secretary of State embodying the
21 suggestions advanced at the conference.

22 Then one of the things that the subcommittee agreed
23 was that supplementary to the existing regulations,
24 boarded-out children of school age should be medically
25 examined at school half-yearly. That seems to have been

1 one of the outcomes of this discussion or conference.

2 Is that your understanding?

3 A. Yes.

4 Q. Then at (c) there's reference there to children and it
5 says:

6 "Reported that on the third incident at the High
7 Court of Judiciary in Dundee, the guardians of these
8 children too had been committed to prison for excessive
9 punishment. The facts of the case were discussed."

10 The Inquiry's already heard evidence from experts in
11 relation to a prosecution of carers from Fife in 1945 in
12 respect of excessive punishment and it's also had sight
13 of some newspaper articles that were published around
14 the time. Do you know if this material is relevant to
15 that case?

16 A. I can only assume so. I can't say specifically.

17 Q. Thank you.

18 I'd like to ask you to look at another document
19 moving forward in time a bit, FIC-000000321. This was
20 again a document that Fife Council provided to us.
21 I think you told us that this was from the 1960s, so we
22 see here, it says:

23 "Wanted, a thousand foster homes."

24 If we look down below the picture, it says:

25 "Happy homes are being found for homeless children

1 by town and county councils all over Scotland -- but
2 more are needed."

3 I think the reference there to "town and county
4 councils" from what you've told us about the history of
5 Fife would be that it was pre-1975?

6 A. Yes.

7 Q. "... but more are needed. Have you a place in your home
8 and your heart for children like these? If you have,
9 you will be giving some child a happy normal life."

10 Then there's the reference -- there's a box there
11 for the address of the children's officer in your area,
12 and I think in small type we can see that this was
13 prepared for the Scottish Home Department by the Central
14 Office of Information.

15 Again, I think this is something that the council
16 found in its archives in terms of advertising for foster
17 parents at that time?

18 A. Yes, that's correct.

19 Q. This seems to have been organised on a national basis?

20 A. Correct.

21 Q. I'd like to move further up to date and look at some
22 material with you from around 1989 and 1990, which again
23 the Council's provided to us.

24 The first document I would like to look at is at
25 FIC-000000513. If we look over to the left-hand side of

1 the page it says there's a draft report to DMT foster
2 care services. I don't know if you know what DMT -- who
3 or what DMT is?

4 A. It would be the equivalent of divisional management team
5 or department management team, so it would have been
6 executive directors.

7 Q. Thank you.

8 Then in the introduction here it refers to a report
9 from the fostering allowances working group in
10 August 1989.

11 "It was decided by the departmental management team
12 ..."

13 So I think that must be the --

14 A. That's the DMT.

15 Q. -- the DMT:

16 "... to defer making a decision on the future of
17 foster care services within Fife, pending a further
18 report detailing other options with a specific budgetary
19 target."

20 Then it talks in the next paragraph about discussing
21 proposals.

22 Then at paragraph 1.4 it says:

23 "Recent weeks have shown there to be serious
24 deficiencies in the organisation of fostering within the
25 department. For example, the lack of information on the

1 availability of foster parents, the decisions to admit
2 to care in the first instance, particularly under
3 section 15 of the 1968 Act. More recently there have
4 been concerns about the apparent overcrowding of foster
5 homes leading to placement breakdown under regrettable
6 and acrimonious circumstances. Most of these problems
7 were identified and considered by the working group in
8 its June 1989 report."

9 So that seems to be -- this report's obviously
10 a draft report after June 1989, and it seems to be
11 highlighting certain serious concerns about the
12 organisation of fostering.

13 A. (Witness nodded)

14 Q. Do you have any more information about what was going on
15 around this time?

16 A. I don't, but from the report or from what's written
17 I can only assume that it would be both in the
18 recruitment and in the support to foster carers and how
19 we supported children and young people into foster care
20 placements, so all that decision making around pathways
21 in and out of care and how we organised monitoring
22 visits. So that's what I've taken from that in terms of
23 organisational serious deficiencies.

24 Q. If we can again just move on in 1989 to FIC-000000350.
25 It's a little bit faint, but I think we see here that

1 this is a memorandum to the director of social work from
2 a Mr D Miller, senior social worker, 23 October 1989 and
3 the subject is:

4 "Procedures for coordinating the fostering system."

5 It says:

6 "After perusing the procedures for coordinating the
7 fostering system, compiled by David Turnbull, I feel
8 that the system recommended by him is far too complex
9 and would lead to chaos. I have therefore taken
10 an opportunity to present my idea of a system that would
11 be effective, and attach same."

12 It looks from this as though there were ongoing
13 discussions about how the fostering system in Fife
14 should be reorganised. Was that your understanding of
15 what was happening at the time?

16 A. It is, and I suppose within that what I take from that
17 text is that organising care is so complex and it can't
18 be put into a simple system, so it's about people and
19 linking people and matching people with people, and the
20 suggestion that it could be simplified raises concerns
21 for me. Certainly that's something we've taken forward
22 in terms of how we're approaching foster care service
23 and the management oversight of that to date. But
24 they're only assumptions that I can make from this.

25 Q. If we look over the page there's a heading, "Procedures

1 for coordinating fostering system". In the first
2 paragraph I think we see that it says:

3 "It is assumed that the present system is not
4 working efficiently now as a regional resource. One of
5 the main contributory factors in this is that social
6 workers do not carry out the present procedures.
7 Specifically that CIC forms are not completed soon
8 enough after change, placement or discharge, that copies
9 of the same are not forwarded to the area teams
10 (homefinder) responsible for the foster parents, that
11 link workers may not make resources known, that there is
12 no regional information of appropriate vacancies for
13 both daytime and standby use. It can be agreed that the
14 present system would work if social workers stuck
15 rigidly to procedures and some way was found of
16 supplying the stand-by service with available
17 appropriate vacancies. It is probably, though, a good
18 time to look at a more appropriate system which is both
19 simple and adequate and the following are proposals for
20 such a system."

21 Within that paragraph he seems to refer to a number
22 of issues, primarily that procedures are simply not
23 being followed?

24 A. I think what I took from that is that written procedures
25 were not being followed, so the work with children and

1 young people, there's no -- I get no sense that that
2 wasn't completed, but this is about how we organise the
3 knowledge base around where there are vacancies and
4 where we can place children at short notice or that
5 present as in need of alternative care.

6 I think from how I read this and where we are today,
7 we know much more about the children and young people we
8 support and this gives me a sense that it was very much
9 about just placing children where there were vacancies,
10 and that's moved on massively.

11 So filling in the forms is not the key bit. Knowing
12 the children and knowing the carers that we have and the
13 available resources we have is certainly where practice
14 is today.

15 The CIC forms is children in care forms, so they are
16 forms that get filled in at the start of placements or
17 at the end of placements and it's definitely an
18 administrative task which alerts regionally where there
19 may be vacancies in the foster care resource. That
20 would have been operating at that time.

21 As I say, now we're very much more in sync with
22 knowing children and children's needs and supporting
23 them and knowing how best we can make use of the
24 resources we have available.

25 Q. It looks as though there was a disconnect between the

1 teams. It's suggesting that not only were the forms not
2 completed -- well, if they weren't completed, they
3 couldn't then be sent to the home-finding team, so
4 therefore if the home-finding team didn't know anything
5 about the child --

6 A. Yes.

7 Q. -- how could they find the right foster parent? I think
8 seems to be one of the issues. Would you agree with
9 that?

10 A. I would. And I think this was pre-electronic files, so
11 it very much depended on paper files getting completed
12 and then sent and then communications between different
13 officers. So very much there is a practical and
14 administrative gap that's being identified here, which
15 would have had an impact on how best we supported
16 children and young people in need of alternative care
17 and matching them to the best resource.

18 Q. I think the other issue is about no regional information
19 on appropriate vacancies, so it looks as though the area
20 teams might not have been sharing or providing all of
21 the information that they had about available foster
22 carers.

23 A. Yes, I think it's timely sharing of information that
24 would be critical. That's what I picked up from there.
25 Because he talks later about stand-by services.

1 Q. What's a stand-by service?

2 A. Out of hours.

3 Q. So if an emergency arose, there wasn't information to
4 hand that would have allowed a social worker to place
5 a child appropriately. Is that the sort of thing?

6 A. I think there's a suggestion that that information
7 wasn't as up to date as it could have been and therefore
8 might have impeded some of the decision making around
9 placing children in alternative care.

10 Q. Moving on from this, if we can look please at
11 FIC-000000572. I think we see there a minute of the
12 social work committee from 16 April 1990. In the
13 introduction we see that it talks about the area-managed
14 fostering service and the centrally managed adolescent
15 placement scheme both providing a fostering service
16 within the region.

17 "The essential difference between the two schemes is
18 that under the area-based schemes foster parents will
19 receive a maintenance allowance and under the adolescent
20 scheme community carers were receiving a maintenance
21 allowance and a fee per child."

22 So there was a discrepancy in terms of payment. Do
23 you know what the adolescent-placement scheme was?

24 A. I don't. I can only assume that it was for the older
25 age group of young people, who may be presenting more

1 challenging behaviours or responding to situations in
2 a more difficult way. So that's as much information as
3 I can give around that.

4 Q. Then it talks at 1.2 about the social work department's
5 intention to unify the foster care service by 1990.

6 A. (Witness nodded)

7 Q. Would that be unifying the fostering service and the
8 adolescent-placement scheme?

9 A. As far as I understand, yes.

10 Q. It talks there about how to achieve the objective of
11 a single system of payment. So I think the focus of
12 this minute seems to be on altering the system of
13 payment to carers.

14 A. Yes. It also talks about support, so the support
15 structure and recruitment. So it was payment, support
16 and recruitment, recognising -- I assume from that,
17 recognising that children are children, first, and it's
18 about wrapping round the right supports for them.

19 Q. If we go on to page 3, I think we see a heading:

20 "Arrangement for the future care, management and
21 structure of foster care services."

22 It says at 3.1:

23 "The review of fostering allowances and the need to
24 integrate the adolescent-placement scheme provided the
25 department with an opportunity to consider reorganising

1 its foster care services."

2 As you were saying, it seems to be about structural
3 change at this point. It says:

4 "Following extensive consultation, the department
5 now proposes to create two specialist teams to deal with
6 the recruitment, training and support of all foster
7 carers."

8 Then at 3.2:

9 "The two teams will be made up from the existing
10 staffing complement."

11 At 3.3, there's going to be an increase in staffing.

12 Then if we go to 3.5, I think that might tell us
13 what the two teams were, so covering different areas.

14 A. Yes.

15 Q. So essentially East Fife and West Fife?

16 A. That's correct.

17 Q. Is this the sort of arrangement that has continued to be
18 operated in Fife or has it changed?

19 A. We have one service with two teams. So they're not
20 specific, they're Fife wide, but certainly -- we have
21 certain tasks attached to each of the teams, but we
22 recognise that they work very closely together. It's
23 just the management demands that we have two teams
24 rather than one Fife-wide one. Sorry, that's not very
25 clear.

1 Q. What do the two teams do in --

2 A. They both do the same things.

3 One might look at adoption and permanence and
4 supporting children and young people through foster care
5 that's short term or interim.

6 And the other team might look at supporting foster
7 carers in the long term or for different age groups.
8 But they're both -- they both cover the whole of the
9 Fife area. It's just the teams are split up into two,
10 with one central management structure around them.

11 So rather than having one large team, we have two
12 teams that report to one service manager.

13 Q. Why is that? Is that there is a benefit of managing the
14 teams more closely or another reason?

15 A. It's really the benefit of allowing those teams to be
16 more connected with the local communities that they
17 operate within. And so having a Fife-wide service has
18 some value and it is a Fife-wide service, but we
19 actually needed teams -- just because the number of
20 foster carers that we support, needed to be two teams to
21 be able to manage that demand.

22 Q. Are these teams located in two different places or not?

23 A. No, they're located together.

24 Q. Okay.

25 Right, so there seemed to have been a restructure at

1 this point, as we've seen. So that was 1989 to 1990.

2 If we move forward into the time of Fife Council,
3 I think that again you've provided us with a management
4 audit that was carried out 1999/2000. If we can look
5 first of all, please, at FIC-000000515. Here I think we
6 see a memo dated 9 April 1999, and the subject is:

7 "The Scottish Office response to the children's
8 safeguards review -- issues relating to family placement
9 provision."

10 There's something about a consultancy index and it's
11 suggested that that might be required:

12 "We have no identified procedure."

13 Do you know what that's about?

14 A. I can only assume it's an index of foster carers and
15 young people, children and young people coming forward
16 for alternative care.

17 Q. It seems to be talking about family placement resources:

18 "Such an index would replace the need to conduct
19 other authorities for information on applicants if they
20 have lived outwith Fife."

21 Do you think it refers to carers who are applying
22 to --

23 A. Transfer into Fife.

24 Q. -- Fife to be foster carers and how do you find out
25 where they lived before and carry out checks?

1 A. Yeah, I assume that it would cover foster carers either
2 coming into the Local Authority as foster carers from
3 different agencies or operating in Fife for different
4 agencies and for young people who may be placed in Fife
5 from other Local Authority areas.

6 Q. It says --

7 LADY SMITH: Does a consultancy index still exist?

8 A. No.

9 LADY SMITH: I can see the idea is to provide a single
10 source of information pulled in from Local Authorities
11 beyond one's own boundaries. Can I take it that's
12 a good idea?

13 A. It is. We probably -- we have a database, it's not
14 a consultancy index, but we're much more -- so we would
15 have information of children that are placed in our
16 area, because we get formal notification of children in
17 our area. And if people want to move from one agency
18 and move into Fife as foster carers, then there's
19 a formal process for doing that.

20 LADY SMITH: I was just wondering, and I've raised this with
21 other people, whether one new benefit would be if there
22 was a national register that all local authorities could
23 consult to see who's registered, who's registered for
24 what, and whether they've been de-registered or not.

25 A. Yes. I think there probably would be value in that,

1 because at the moment it's done individually.

2 LADY SMITH: Yes. Thank you.

3 MS INNES: You've obviously had experience working in
4 England. Do you know if there's a national register in
5 England? Have you seen that in operation in your
6 career, for example?

7 A. I haven't experienced that, no. It's been some time
8 since I operated in England.

9 Q. Okay. If we go to the next paragraph, SCRO checks, and
10 the author says, at this point:

11 " ... as we have discussed, Fife Council does not
12 have a policy for updating SCRO checks on foster carers
13 other than when a change of remit is identified.
14 Through discussions with a number of other agencies, the
15 norm appears to be for SCRO checks to be carried out two
16 yearly on all foster carers, prospective adopters and
17 family members aged over 16 years."

18 That would seem to be criminal record checks. How
19 has that developed in Fife?

20 A. I think that's been superseded by the protection of
21 vulnerable groups scheme, and so foster carers would
22 have an obligation to inform us if they were involved or
23 charged with any offence or involved in any criminal
24 investigation or activity, and we also make checks with
25 the PVG scheme for having regular updates. We'd also

1 share information with the police, and if there was any
2 intelligence to suggest that there was a concern around
3 a carer or somebody linked with a foster carer, then we
4 would take that through our child protection processes
5 or adult protection processes.

6 LADY SMITH: Do you require PVG certification for family
7 members aged over 16 years?

8 A. Yes.

9 LADY SMITH: Today?

10 A. Yes.

11 LADY SMITH: Thank you.

12 MS INNES: Are those checks updated on a regular basis?

13 A. I don't know that. I'll have to check that. I think
14 because the self-declaration came in that -- I'll check
15 that to make sure.

16 Q. Okay, thank you. Then there's reference to personal
17 referees. It says at 3:

18 "Again, we should take the opportunity to review how
19 we collect information from referees identified by
20 applicants and how useful the present format is for our
21 purposes."

22 They seem to have been looking again at references
23 at that point.

24 A. (Witness nodded)

25 Q. Then at 4, the retention of files:

1 "The issue of length of time files should be
2 retained on previous foster carers needs to be
3 addressed. This has implications for storage and access
4 within offices."

5 Again that seems to be something that the council
6 was looking at at the time.

7 A. (Witness nodded)

8 Q. Can we go over the page, please, to point 5, "Complaints
9 and allegations", it says:

10 "We need to establish an agreed procedure for
11 recording complaints and allegations against foster
12 carers addressing issues such as who is responsible for
13 recording, updating and holding the information, and who
14 has access to it."

15 Do you know if a procedure was established for
16 recording complaints and allegations against foster
17 carers?

18 A. I know we have a current procedure for recording
19 complaints -- about complaints and allegations. And
20 whether it developed from this, I'd be unsure. But the
21 current process is that if there is an allegation, then
22 it's fed through to the child protection team and there
23 will be automatically a strategic IRD that looks at any
24 particular issues around that placement. So myself as
25 Chief Social Work Officer or my delegate would be

1 informed immediately of any allegations that are made
2 against foster carers.

3 And we do keep a database of those complaints,
4 individually and collectively, to see if there are any
5 emerging themes or patterns. But the individual
6 complaints are kept in the HR file, the confidential
7 file, of foster carers.

8 Q. Okay.

9 A. We've also looked -- sorry, just to go on from that --
10 at developing chronologies, because these things tend to
11 happen incrementally, if we're looking at neglect or
12 harmful behaviours, then it's about how we capture that
13 information and don't look through the lens of it being
14 one incident at a time. We're looking at that kind of
15 wider pattern that might be presenting.

16 LADY SMITH: Would you agree that if you don't record the
17 chronology, you're depriving yourself of the opportunity
18 to spot patterns --

19 A. Absolutely.

20 LADY SMITH: -- and repeat behaviour?

21 A. Absolutely. And to be able to give weighting to certain
22 information.

23 LADY SMITH: Yes.

24 MS INNES: If we look at 6 below that, I think we see
25 there's reference to review and inspection of foster

1 carers and it's saying:

2 "Our present system needs to be considered. Other
3 authorities I have consulted with have a more formal
4 reviewing system -- carried out through the fostering
5 panel or a specially convened group. We need to decide
6 what is practical and achievable with a group of almost
7 140 foster carers, but I feel that our current practice
8 lacks formality."

9 This seems to be around regular review of foster
10 carers.

11 A. (Witness nodded)

12 Q. How has that developed?

13 A. We do have a formal system of review of foster carers
14 from when they first make contact to be considered as
15 foster carers and going through the application process,
16 and then once they're approved, through a panel which is
17 led by an independent chair.

18 There's regular visits to foster carers and there's
19 peer support, so they're usually, as new foster carers,
20 linked in with another foster carer who has experience.
21 And there's regular reviews of both the foster carer and
22 the support system around that carer, and also the child
23 or children who are placed in that provision. It takes
24 quite a wide lens, looking at information from the
25 child, the family, the social worker, the supervising

1 social worker of the foster placement and any other
2 associated information that's come to light, if there's
3 been any complaints, if there's been any concerns, if
4 there's been any areas of good practice.

5 So it's quite a rigorous process, but I would say
6 within all that we have Who Cares? and the rights
7 worker, because typically you can put a lot of supports
8 around a foster carer, but it's the voice of children
9 and young people that are the most important ones. So
10 it's being able to extrapolate that and to make sure
11 they're seen to have a voice that's credible and will be
12 listened to.

13 Q. If we just look just above the signature, there's
14 a paragraph saying:

15 "I am aware that a number of issues are being
16 addressed within the national standards document. It
17 would seem as a service we need to look at our present
18 systems, policy and practice to meet the aims proposed
19 by the safeguards review."

20 The council at this point seemed to have been
21 looking at the Kent review and considering what it
22 needed to do to apply the recommendations. Is that your
23 understanding?

24 A. Yes, that's my understanding.

25 Q. If we go over the page to page 3, please, I think we see

1 another memo, 27 October 1999, again the subject,
2 "Children's safeguards review", and it says that there
3 have been discussion about points in the action plan and
4 general implications emerging from the Kent report in
5 relation to foster care in Fife.

6 Then there at section 3 it mentions something you
7 just alluded to a moment ago:

8 "We aim to maintain links with Who Cares? and to
9 look at ways of encouraging young people in foster care
10 to identify with Who Cares? as appropriate."

11 That's obviously something that the council were
12 looking at at that time as well?

13 A. Yes.

14 Q. Then I think at section 5 there's reference to criminal
15 record checks that needed to be regularly updated, and
16 then at section 6 there was reference to some of the
17 training being provided.

18 A. (Witness nodded)

19 Q. There's reference to foster carers being able to attend
20 a course on dealing with difficult behaviour:

21 "They all receive training on safe caring and
22 dealing with allegations during preparation groups.
23 Further emphasis is included in post-approval training.
24 We also offer foster carers training on sexual abuse."

25 Are all of these areas on which foster carers would

1 receive training?

2 A. Yes. I think the approach that we take now is about
3 being trauma-informed, and so being able to support
4 young people through whatever their presentation is and
5 for whatever reason that presentation is. We've also
6 got support through Springfield, which offers foster
7 carers access to psychology to be able to better
8 understand how a child or young person may be presenting
9 and how they can best support that child or young
10 person.

11 So the CALM training is still available, but it
12 comes more from the perspective of being trauma
13 informed.

14 Q. Okay.

15 A. And we would expect that foster carers show competence
16 in that through their behaviours and their
17 communications and their approaches.

18 Q. Thank you.

19 If we go over the page, please, I think we see
20 reference to section 7, so:

21 "All foster carers should be reviewed annually."

22 That seems to have been the position at the time.
23 Is that still the case? Are foster carers reviewed
24 annually?

25 A. Yes, all foster carers are reviewed annually.

1 Q. There's a note, the first bullet point:
2 "We do not record absconding from foster care."
3 Is that something that would be recorded now or not?
4 A. It would be, and we certainly report on children who go
5 missing. That's the language we use now and that's
6 reported on. We look at reporting on that weekly at the
7 moment as a data set, so we have a very informed
8 position about children or young people who may be
9 missing from foster care or from residential care, and
10 look at the supports we put around that.
11 LADY SMITH: Are you able to tell us why the previous
12 policy, as recorded here, was not to record absconding
13 from foster care?
14 A. I can't. I don't understand why that would be the case.
15 And it might be the use of how people were seeing
16 absconding 20 years ago and where children and young
17 people were absconding to. So it's a difficult one for
18 me to offer an answer.
19 LADY SMITH: Had you come across that policy anywhere else?
20 A. It would be unusual, I think, is all I would say,
21 because a child who is missing is a child who is
22 missing. The very fact that they're in foster care, the
23 vulnerability and duty of care is around, so I can't say
24 for sure, but I think that's unusual.
25 LADY SMITH: You would want to know why, wouldn't you?

1 A. Yes.

2 LADY SMITH: Thank you.

3 MS INNES: If we can move on from that document now --

4 sorry, just at the bottom of the page we're looking at
5 there's reference to:

6 "We are shortly meeting with Theresa to discuss the
7 management audit with particular emphasis on dealing
8 with allegations against foster carers."

9 Do you know what the "management audit" being
10 referred to is there?

11 A. I've seen a management audit and there were various
12 recommendations around recruitment and being able to
13 ensure that the voice of the child was listened to and
14 heard. So I'm guessing it was around how we manage
15 that, how we ensure that foster carers are recruited
16 with an explicit understanding that any allegations will
17 be taken seriously and will be acted upon, and just
18 recognising the complexity within that, that I think one
19 of the -- from the reading that I've done, one of the
20 statements was around if you have a really clear
21 narrative that concerns or allegations made against
22 carers was going to be seriously looked into, that could
23 prevent people coming forward to be foster carers if
24 they had any other intent.

25 Q. If we could look on, please, to FIC-000000086, and if we

1 look at page 39, I think we see this is a private and
2 confidential "Management audit of current arrangements
3 to protect children from abuse whilst being looked after
4 away from home on behalf of Fife Council".

5 If we scroll down, I think we see the date of
6 18 May 2000.

7 If we go on to page 41, at the introduction I think
8 we see:

9 "The purpose of the audit is to ensure that relevant
10 procedures, guidance and practice are in place in order
11 to diminish the risk and to uncover any abuse of
12 children who are currently being looked after away from
13 home on behalf of Fife Council."

14 Then at paragraph 1.2 we see that it says:

15 "This audit is being carried out following a police
16 investigation into allegations that children in care of
17 the then responsible Local Authorities were subjected to
18 serious sexual abuse between 1957 and 1989. The initial
19 allegations were made to social work staff by a former
20 resident of St Margaret's Children's Home."

21 That seems to set out the context of this audit.

22 If we can go down to 1.6, I think we see reference
23 there to the Children's Safeguards Review and
24 Edinburgh's Children, so the Edinburgh Inquiry.

25 A. Yes.

1 Q. There's reference to the recommendations of those,
2 together with some in England at 1.7?
3 A. Yes.
4 Q. If we go on, please, to paragraph 1.15 on page 43,
5 I think we see here:
6 "This audit will examine current practice and
7 procedures relevant to ensuring that children being
8 looked after away from home on behalf of Fife Council
9 are protected from abuse, including bullying. The
10 following groups of children were identified as coming
11 within the remit of this audit."
12 At the second bullet point I think we see:
13 "All children being looked after by foster carers
14 approved and registered by Fife Council."
15 So that seems --
16 A. Yes, correct.
17 Q. -- to have been the remit.
18 If we look down to the bottom of the page, I think
19 we see a table of numbers and there children in foster
20 care numbered 169 at 31 March 1999.
21 A. (Witness nodded)
22 Q. So that seemed --
23 A. Yes.
24 Q. -- to have been the number of children that were being
25 looked at at that time.

1 I think this audit was carried out by

2 Alan Finlayson; is that right?

3 A. Yes, I understand that's right.

4 Q. I think we see that over the page at page 44 --

5 A. Yes.

6 Q. -- at 1.18.

7 We see there that reports and documentation have
8 been considered --

9 A. Yes.

10 Q. -- and I think the senior manager had been assisted in
11 drawing the information together and perhaps he wasn't
12 the author of the document, but he was certainly
13 involved --

14 A. Yes.

15 Q. -- in this audit? Obviously we know that he had been
16 a member of the Edinburgh Inquiry team.

17 A. (Witness nodded)

18 Q. If I can ask you to look at some of the recommendations,
19 page 46, please. (Pause)

20 Recommendation 2, if we scroll down, there's
21 a recommendation there that says:

22 "Written procedures require to be issued ensuring
23 that field social workers understand their duty to
24 advise children in foster care or placements outwith
25 Fife of the complaints system."

1 It seems to have been a requirement -- it looks as
2 though there were no written procedures saying that
3 children should be advised of complaints procedures
4 prior to this.

5 A. I don't know whether we can surmise there were no
6 written procedures, but I think ensuring that field
7 social workers understood they had the responsibility to
8 give children who were placed outwith Fife that
9 information was critical.

10 Q. Does that remain something that the child's social
11 worker should ensure that they do, share with --

12 A. Absolutely. And it's checked through the looked-after
13 child's review.

14 Q. If we move on, please, to page 48. At paragraph 2.16 it
15 notes:

16 "The table below indicates numbers of allegations of
17 abuse that have been investigated by the child
18 protection unit in the period April to September 1999."

19 Then in the table, so for that period, I think we
20 see there's a foster care placement where an allegation
21 of sexual abuse was made against an adult family member
22 of the carer. It says the child was moved and the
23 alleged abuser was charged.

24 A. Yes.

25 Q. I don't know if you've been able to make any enquiries

1 as to any details of that case or whether that person
2 was convicted?

3 A. I don't know the answer to that, but I can certainly
4 look into that and ensure that's provided.

5 Q. That would be helpful. Thank you.

6 Then the only other incident in foster care there is
7 one of misprescribing medication by a foster carer and
8 the child appears to have been moved in that instance as
9 well?

10 A. Yes.

11 Q. Then if I can move on, please, to page 51, to the bottom
12 of the page at, "Recruitment and selection of foster
13 carers". At this point the audit notes:

14 "The recruitment and selection process in respect of
15 foster carers is thorough and rigorous."

16 Then it sets out the various aspects of the
17 assessment process. It notes at the end there:

18 "The two Fife Council family placement teams are
19 currently producing documentary guidance to describe the
20 process and criteria that are used in its
21 implementation."

22 I think if we go over the page to page 52, we see
23 that a recommendation was that this guidance be
24 produced. It says:

25 " ... form part of the overall development plan for

1 foster care services in Fife currently being
2 produced ... it is recommended that this process be
3 reviewed and updated every two years."

4 Does Fife still produce written guidance in respect
5 of the selection and recruitment process?

6 A. Yes, it has written guidance. I'm not sure when it was
7 last reviewed, but I'll certainly check that as well.
8 But we continually look at how we can improve the
9 process and look at information that comes from external
10 reviews, external audits or best practice information to
11 ensure that what we're offering in Fife is best
12 practice, so it's informed both what we do internally
13 but also from what's best practice outwith.

14 Q. If we look on, please, to page 57, paragraph 5.7.
15 I think we see reference there to Fife Council having
16 been the first council in Scotland to offer accredited
17 SVQ training to foster carers, and then there's
18 reference to particular areas of training that are
19 covered with foster carers. Is that something -- we've
20 already talked a little bit about training, but I assume
21 there's a comprehensive training plan in place?

22 A. There is. As it says below, that foster carers still
23 have access to the full range of training available
24 within the children and families section of social work
25 service, so it's the full range of training that they're

1 able to access and will be encouraged to access,
2 dependent on their particular skill set or competence.

3 Q. If we look on to page 60, please, and recommendation 17,
4 this goes back to the issue of absconding and the
5 recommendation from this audit was that there be a joint
6 protocol with regard to children who abscond or fail to
7 return -- sorry:

8 "It is recommended that the joint police and social
9 work working group developing a protocol with regard to
10 children who abscond or fail to return from foster care
11 or residential units be implemented throughout Fife
12 Council on completion in March 2000."

13 It looks as though something was being worked on in
14 terms of a joint protocol which would cover foster care
15 as well as residential care --

16 A. (Witness nodded)

17 Q. -- and this recommendation was that that be implemented
18 in Fife.

19 A. Yes, and so what was implemented I'm not sure, but what
20 we have now is we've worked very much with Barnardo's
21 and their national drives around child sexual
22 exploitation and looking at working with the police
23 around missing interviews, so when children come back,
24 that there's somebody who is able to talk through with
25 them to try and unpick and make sense of some of the

1 reasons why they were missing, where they were going,
2 what the risks are, levels of vulnerability and how we
3 can better support them going forward.

4 If I can just add to that comment before when we
5 were talking about absconding not being reported or
6 recorded when children absconded from foster care, I'm
7 just wondering whether it was a Fife-wide record,
8 because I would absolutely have expected individual
9 records to capture when children were absconding. But
10 again that's not clear, so I can check that.

11 LADY SMITH: Sorry, what do you mean by "individual records"
12 there?

13 A. Individual children's records, yes.

14 LADY SMITH: So at the very least you'd expect to see it in
15 the children's records --

16 A. Absolutely.

17 LADY SMITH: -- but you may be needing to record it
18 somewhere else --

19 A. Yes.

20 LADY SMITH: -- if you're going to have a proper record.

21 A. I think so if we were looking at it now we will very
22 much alert to how organised or coordinated episodes of
23 missing can present. So if there's any particular
24 vulnerabilities or areas that we need to be more
25 supportive of or work with our colleagues and the police

1 around. So it's having that overall picture, which
2 really gives you the key information.

3 LADY SMITH: You'll do that if you have specific recording
4 of absconding?

5 A. We would. If it was outwith individual case records,
6 we'd be able to do a Fife-wide picture, yes.

7 LADY SMITH: But you no doubt would also put it in
8 children's records?

9 A. Yes.

10 LADY SMITH: And the foster carers' record?

11 A. Yes.

12 LADY SMITH: Thank you.

13 MS INNES: If we look down to 6.13 that we can see on the
14 screen it talks there about there not being a policy
15 about a leaving-care interview with children and in the
16 recommendation it says that there should be a policy of
17 exit interviews with children and young people leaving
18 care be developed.

19 Then it also talks about one of the recommendations
20 from the Edinburgh Inquiry about a policy of
21 interviewing staff who resign, so exit interviews for
22 staff. But here the policy seems to be suggested that
23 an exit interview take place with children and young
24 people.

25 A. (Witness nodded)

1 Q. Is that something that happens?

2 A. Children who leave care would have an allocated social
3 worker, and dependent on their age, it would either be
4 through the young persons team and linked into
5 continuing care or actively through the Children and
6 Families Team and we work very closely with children and
7 young people and their families as appropriate, so we
8 would know -- we would work with them about what their
9 plan was and if they were looking at leaving care, then
10 we would certainly be assessing what the drivers for
11 that were, how appropriate it was, what the
12 vulnerability was and what the support needs were, and
13 the team around the child would be very much alert to
14 that.

15 So definitely in terms of children leaving care,
16 whether it's done planned or unplanned, there would be
17 a mechanism to capture what the issues were and any
18 additional support needs, and there's very definitely
19 exit interviews with all staff across Fife Council.

20 LADY SMITH: What about exit interviews, if that's the right
21 term, with foster carers who decide they don't want to
22 foster any more?

23 A. Yes, we have exit interviews with foster carers as well.
24 And if they -- not only if they don't want to foster any
25 more, but if they want to move to a different

1 organisation for fostering.

2 LADY SMITH: Or if there's an agreed de-registration?

3 A. Absolutely.

4 LADY SMITH: Thank you.

5 MS INNES: Finally in this document, if we move to page 114,

6 please, I think we see here appendix 6:

7 "Allegations of abuse against foster carers."

8 If we scroll to the bottom, we see in small type:

9 "Childcare procedures January 2000."

10 Going on in this document, I think we see what
11 appears to be a procedure in relation to allegations of
12 abuse against foster carers. I assume that that's
13 something that has developed over time and been
14 reviewed?

15 A. Yes, and it would come under the Child Protection
16 Committee guidelines and guidance, and that's under
17 national. There's new revised guidance coming out. So
18 these are all areas that we've been picking on and
19 looking at further sense checking to make sure that
20 they're still fit for purpose.

21 And of course the more recent reviews from Edinburgh
22 and Scottish Borders have further informed this work and
23 we're looking at this through the Child Protection
24 Committee but also through our single agencies.

25 MS INNES: Thank you.

1 My Lady, would that be an appropriate time for
2 a break?

3 LADY SMITH: Yes, I think we could do that.

4 If that would work for you, Kathy, we'll stop now
5 for a short afternoon break and then carry on with your
6 evidence once we've done that.

7 Thank you.

8 (3.02 pm)

9 (A short break)

10 (3.10 pm)

11 LADY SMITH: Kathy, are you ready for us to carry on?

12 A. I am, thank you.

13 LADY SMITH: Thank you.

14 Ms Innes, when you're ready.

15 MS INNES: Thank you, my Lady.

16 We've seen reference in the documents that we've
17 looked at to an inquiry that was undertaken after
18 allegations of abuse were made and then investigated at
19 St Margaret's in Fife. If we can look at FIC-000000088,
20 I think we see that this document is the "Fife Council
21 independent enquiry following the conviction of
22 David Logan Murphy for sexual abuse".

23 If we scroll down a little it will tell us the date,
24 January 2002.

25 If we can move on to page 50, we've looked at this

1 document again previously in this case study with
2 Professor Kendrick. If we can scroll down to the
3 heading, "Foster care for children and young people",
4 I think we see there just after 28 it's noted:

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

8 That's the Inquiry noting the experience of
9 survivors that had come forward to speak to them, not
10 only about St Margaret's but they had also spoken about
11 their time in foster care.

12 There's reference to the survivors being clear that
13 very careful selection of carers was essential,
14 supervision of carers was important, a need for access
15 to young people to support and advise them:

16 "Survivors wanted to have arrangements in place to
17 ensure that poor standards of care would be investigated
18 carefully. They felt that carers should not be allowed
19 to continue to care if there was evidence of provision
20 being inadequate."

21 So these are issues that appear to have been
22 highlighted by survivors. In particular it refers there
23 to poor standards of care and saying that these need to
24 be investigated carefully, perhaps on a formal basis or
25 a more formal basis than an informal one?

1 A. Yes.

2 Q. Would you agree that that's something that would be
3 appropriate, if there's poor standards of care they
4 should be investigated in a formal way?

5 A. Absolutely. I think the difficulty is how you capture
6 those concerns in a meaningful way to then be able to
7 investigate them. And chronologies will work some way
8 towards doing that and speaking with the child, making
9 sure that the young person is spoken to outwith and
10 having as many eyes and ears around the child or young
11 person in that provision and doing all the checks and
12 balances that are required to ensure that foster carers
13 maintain registration is key. I mean it's really
14 complex but I think every opportunity we have to listen
15 and act we should take.

16 Q. If we go on to the top of page 51, in the second
17 paragraph there we see that at this time in 2002 it's
18 noted:

19 "The Council has a clear procedure for investigating
20 any allegations of abuse against foster carers. The
21 investigation will be jointly undertaken by police and
22 social work from one of the child protection units."

23 Then there's a discussion about what should happen
24 should the child be moved and it talks about a review
25 being convened.

1 There are a couple of recommendations noted there.

2 Recommendation 12, it says:

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

9 So not just the person that's made the allegation,
10 but other children that had been in that care setting.

11 Is that something that was implemented by Fife Council?

12 A. It certainly happens now, so that is practice and policy
13 at the moment.

14 Q. Then at recommendation 13 it says:

15 "We recommend that the selection process for foster
16 carers needs to include specific attention to sexual
17 abuse and the safety of the care that prospective carers
18 can provide."

19 Again, was that implemented by Fife Council?

20 A. At the moment what we do is ensure that all abuse -- all
21 areas of abuse and potential harm and vulnerability is
22 considered, and, as I said earlier, it's through the
23 lens of being trauma-informed and trauma approaches, so
24 not categorising children's behaviour through one
25 particular harm or abuse but looking at how children and

1 young people can keep themselves safe and how foster
2 carers have got to support children and young people in
3 keeping them safe and what that looks like.

4 Q. Then it says:

5 "Request for medical checks from GPs should ask
6 specific questions about any knowledge of abuse in the
7 prospective carer's family."

8 Is that something that happens?

9 A. We ask GPs and through references if there is any issues
10 or any knowledge that they have that would preclude
11 a potential carer being considered as a carer or
12 registered, so it's not specific, but it's very
13 definitely in the realms of: is there anything that we
14 need to be alert to that might preclude this applicant
15 going forward?

16 LADY SMITH: Do you think that alerts them to look beyond
17 the individual who seeks to become a foster carer?

18 A. Because GP contracts are all individual at the moment,
19 I think it would be difficult.

20 However, I think it would be too narrow just to ask
21 for any issues around sexual abuse, because you'd be
22 wanting to look at --

23 LADY SMITH: Yes, I get that, but the point here is to try
24 and gather from the GP any indication of whether there's
25 something in the family of the prospective carer that

1 raises a red flag or at the very least an amber flag, if
2 I can put it that way, and you wouldn't need to say
3 exactly what it is --

4 A. No.

5 LADY SMITH: -- if the GP was able to answer that.

6 A. I think it probably would benefit from further
7 discussion with GPs about what our expectations are and
8 what their expectations are. I think that would be
9 helpful going forward, because it could be something
10 that is lost in the narrative, and knowing about past
11 abuse of carers or any information that would preclude
12 them becoming a carer, I think it's what weight is given
13 to that from GPs and we probably need to have a bit more
14 of a conversation around that.

15 LADY SMITH: Yes. Thank you.

16 MS INNES: If we move on to page 60, at the bottom of that
17 page and at the top of page 61 there's some
18 recommendations in relation to checking, so carrying out
19 checks. You've talked about past offences and finding
20 out about past offences. It's saying there:

21 "Colleagues in criminal justice should be consulted
22 for their specialist perspective in understanding any
23 offence and its significance."

24 So obviously presumably it's not just about doing
25 a criminal records check. If somebody has an offence,

1 how would the Local Authority then deal with that?

2 A. We would do a risk assessment, a formal written risk
3 assessment, and we'd get advice from our justice service
4 colleagues or who's got the most expertise to understand
5 what the offence was, and then we would undertake
6 a written assessment to see whether we could continue to
7 proceed with those carers being further assessed and
8 recruited.

9 Q. Thank you.

10 Then it talks about awareness training:

11 "... as it's easy to get lax about sounding out
12 others, including young people, in the assessment of the
13 applicant's suitability."

14 It's talking there about interview of staff in
15 residential care posts but I think we may have heard
16 evidence that this would translate equally well to
17 foster care. I think this is about staff training, so
18 the importance of repeating or refreshing staff
19 training, is that something that's undertaken by Fife
20 Council?

21 A. Yes, and there's a log that captures each foster carer,
22 the training that they've been on and any gaps in that.
23 There's kind of mandatory training and there's other
24 areas for development and that's kept regularly and
25 reviewed annually with foster carers.

1 Q. Then the next recommendation is about including young
2 people in recruitment. Again, this is talking about
3 residential care but how do you include young people in
4 recruitment of foster carers, for example, or how
5 services are operated?

6 A. It's an area that we continue to develop and children
7 and young people have been party to looking at what
8 questions they would want us to ask as part of the
9 interview or to look for as part of the assessment. And
10 there's been some consideration of bringing young people
11 into the informal part of the interview and preparing
12 them for that and being able to ask questions
13 themselves.

14 That has been more in residential care than it has
15 in foster care, but it's certainly an area that we
16 continue to look at and look at ways of developing.

17 Q. Then recommendations 24 talks about checking
18 an applicant's birth certificate to ensure that a name
19 change doesn't allow evasion of detection of any
20 previous offences, and:

21 "... the Council should also reserve the right to
22 approach all previous employers, not just those put
23 forward as references by the applicant."

24 Again, the focus of this was residential care, but
25 are these areas that would also be covered in a foster

1 carer's assessment?

2 A. We certainly look for birth certificates, marriage
3 certificates, anything that might be a formal document
4 about a change of name, look at passports, driving
5 licences, so we have some formal identification and can
6 validate that.

7 In terms of previous employers, I think we've always
8 had the right to be able to seek additional information
9 from other employers that aren't put forward necessarily
10 in the references. With the foster carers we do quite
11 a broad reach into employers of the potential foster
12 carers and personal friendships and meet with extended
13 family, so that's kind of a broad sweep of -- and people
14 get the opportunity to put in information anonymously.
15 So hopefully that allows people to raise any issues that
16 they would wish. But it's all taken very seriously and
17 recorded and forms part of the overall assessment of
18 carers.

19 Q. I'd like to leave that document now and go back to your
20 A-D response at FIC-000000504 and going to page 16 and
21 under the heading "Numbers", page 16, and there we see
22 that the Local Authority's been asked:

23 "How many children did the Local Authority
24 accommodate at a time in foster care and in how many
25 placements?"

1 There's no information that was able to be found for
2 the 1930s.

3 There's some information, I think, for the 1940s in
4 respect of numbers at specific times that you were able
5 to find.

6 A. (Witness nodded)

7 Q. Also a reference to 1950s and 1960s.

8 There's no information found for the 1970s.

9 A. (Witness nodded)

10 Q. Do you know why that might be?

11 A. I can't answer that, unless it was a system change, we'd
12 have still been working with paper records at that time.

13 I think it's unusual that we had the same amount of
14 children in foster care in the 1950s as we did in the
15 1960s, so how confident we would be that that was the
16 true picture I think is a question for me.

17 Q. We have in the 1980s there's again a single year, 1989,
18 and then the next is 1990s to 2000s and it says, "No
19 information available".

20 A. Yes.

21 Q. Is that correct?

22 A. Yes, it was, unfortunately. We've looked at systems and
23 databases and paper records and that ten-year gap comes
24 up quite frequently in this response document. We've
25 tried to interrogate what that might be around and

1 I can't answer that, I'm afraid.

2 Q. So the 2000s take us right up to 2014 and at that time
3 I think we know from other sources, I think maybe from
4 2005 onwards, Local Authorities had to provide numbers
5 of children in care to the Care Inspectorate.

6 A. (Witness nodded)

7 Q. Are you not able to get any information from that
8 source?

9 A. The avenues that we tried, we weren't able to get
10 information, but I can certainly go back and make sure
11 and give a list of everything we did try.

12 Q. Okay, thank you.

13 In terms of the next question, the next question is:

14 "How many foster carers were approved or registered
15 by the Local Authority at any given time?"

16 You weren't able to find any information for the
17 whole period in respect of that.

18 A. Yes, it's unusual.

19 Q. Yes.

20 Do you think you might have some information about
21 that?

22 A. It's really difficult, because I know that we've
23 certainly interrogated every system that we had and
24 we've come up with nothing. So unless -- but it is
25 unusual and I'm happy to give the Inquiry the measures

1 that we took to try and locate that data.

2 LADY SMITH: Do you know, Kathy, whether any of these

3 numbers include children who were in kinship care?

4 A. I doubt they would at that time.

5 LADY SMITH: Was Fife fulfilling kinship care

6 responsibilities in these periods, do you know?

7 A. In the 1930s, 1940, 1950s 1960s, probably not.

8 LADY SMITH: No, but after that?

9 A. After that, I think there were kinship arrangements --

10 there would have been kinship arrangements in place.

11 They were probably more informal than formal.

12 LADY SMITH: We have heard of a number of authorities that

13 quite often had more children in formal kinship than in

14 foster care.

15 A. Right.

16 LADY SMITH: Once formal kinship, if I can use that as

17 a shorthand for when certain statutory responsibilities

18 kicked in.

19 A. Yes.

20 LADY SMITH: Maybe you could check.

21 A. Absolutely.

22 LADY SMITH: Even if you can't give us specific figures,

23 just to give us an indication whether it's something

24 Fife was doing.

25 A. Absolutely.

1 LADY SMITH: Thank you.

2 MS INNES: If we can go on, please, to page 17 and under the
3 heading "Present", it asks there:

4 "How many children did the Local Authority
5 accommodate at a time in foster care and in how many
6 placements?"

7 It says:

8 "As at 31 December 2019, Fife Council had 199
9 children in foster care placements in 168 placements.
10 67 were siblings placed together in the same foster
11 placement."

12 That would explain the --

13 A. The difference.

14 Q. -- the discrepancy I think is what you're saying.

15 If we look at (b) there's reference to Fife Council
16 having a total of 182 carers at that time.

17 A. (Witness nodded)

18 Q. If we look to the top of the next page, please, page 18
19 and after (e):

20 "How many children in total were accommodated by the
21 Local Authority?"

22 There it says:

23 "On 31 December 2019 there were 910 looked-after
24 children in Fife. This includes those looked after at
25 home, in kinship, residential and foster care. 543 of

1 the children were cared for within either foster care or
2 residential care. This includes purchased placements as
3 well as Fife Council placements."

4 Then if we look to the next question and answer, it
5 says in the answer:

6 "Within the 543 noted above, 425 children were cared
7 for in foster care compared to 118 children in
8 residential care."

9 So a moment ago we looked at an answer on page 17
10 which told us that Fife Council had 199 children in
11 foster care placements. Now we're seeing that here it
12 says there were 425 children in foster care. Can you
13 explain the discrepancy?

14 A. I can't. I will certainly find out. I do know that we
15 did have 910 looked-after children and there was
16 a greater weighting to children in foster care than
17 there was in kinship care or residential care, but we
18 have got a discrepancy of about 300 children and
19 I apologise for that and I'll certainly take that back.

20 LADY SMITH: I see, given the reference to kinship care
21 here, though not in the previous answers, it does look
22 as though Fife had quite a significant number of
23 children who they were following through their formal
24 kinship duties in kinship care.

25 A. Yes, absolutely.

1 LADY SMITH: Must have been, if the simple maths is done.

2 A. Yes, yes. And the procedure at that time was very much
3 about belonging to Fife, so children remaining with
4 their families, so a shifting from relying on foster
5 care, residential care to supporting children within
6 their own families, extended families or communities in
7 a more direct way.

8 LADY SMITH: Yes.

9 Thank you.

10 MS INNES: I do see that there's reference to the 543
11 children including purchased placements as well as Fife
12 Council placements, so I wonder whether the discrepancy
13 is that there were 425 children in foster care, 199 of
14 them were in care with Fife foster carers --

15 A. And the others were purchased foster care.

16 Q. -- and 226 of them were in other foster care.

17 If you could check that as well, Kathy, that would
18 be very helpful.

19 LADY SMITH: It would also be interesting to know, if
20 Ms Innes's suggested inference was right, whether that
21 was typical for Fife to have more children in purchased
22 placements than in placements with their own foster
23 carers.

24 A. Yes. Certainly in 2019 when I came into Fife that was
25 the position.

1 LADY SMITH: Ah.

2 A. There were more children in purchased foster placements
3 than in kinship, it's shifted now --

4 LADY SMITH: No, I was thinking of kinship, I was thinking
5 of on your own register --

6 A. Yes, sorry.

7 LADY SMITH: -- I think that is what Ms Innes was
8 suggesting.

9 A. Yes, there was more children placed in purchased foster
10 care than there was our own internal foster care.

11 LADY SMITH: Thank you.

12 MS INNES: Can I ask you to look at an addendum that you
13 provided in relation to some follow-up queries that were
14 posed by the Inquiry. It's at FIC-000000566. On page 3
15 there's reference, if we look to "Methodology", it says:
16 "To collate information and evidence for the Fife
17 Council response ..."

18 There was a team I think that you've already
19 referred to?

20 A. Yes.

21 Q. " ... who attended Fife Council's archive department to
22 review 111 paper documents. These documents had all
23 been pre-selected by the archive team as being relevant
24 to child protection and fostering practice over the
25 relevant time period."

1 Then there's a list of the types of documents.

2 If we look three bullet points from the bottom of
3 this list there's:

4 "Correspondence relating to fostering and adoption
5 panels."

6 Do you know if that was minutes of adoption and
7 fostering panels or something else?

8 A. I assume that was letters inviting -- of registration or
9 not. Again that's a material matter that I can check
10 on.

11 Q. Okay. Do you know if the council hold minutes of
12 fostering and adoption panels?

13 A. It's usual practice now. Whether there was any
14 available then, I'm unsure.

15 Q. Then there's reference to foster carers' archived files
16 from the 1990s to 2000s. Out of the 111 documents that
17 are referred to, do you know how many foster carer
18 archived files were considered?

19 A. I don't, but I can find that out.

20 Q. It then goes on to say below the bullet points:

21 "These records above were reviewed in their entirety
22 and were found to contain information relevant regarding
23 to foster carers ..."

24 If we go on to the next page, please, page 4, the
25 second paragraph that we see:

1 "Fife Council does not hold a centralised record of
2 historic foster carers, or children who were placed in
3 foster care. This means that it has not been possible
4 to apply search criteria to identify individual files
5 that could be reviewed in relation to historical
6 practice, policy or possible abuse experienced in foster
7 care."

8 Can you explain that a little bit more, please?

9 A. I think that some of the struggles that we experienced
10 in trying to locate files was if we had a name but not
11 a date of birth, if we had not a full name. We do keep
12 files and we're able to interrogate files and that's --
13 we keep files in line with data protection and access to
14 files, so at the moment it's 75 years or 100 years, so
15 we would have files relating to children in our care.

16 If there are people -- children that were placed in
17 Fife from another Local Authority, we wouldn't
18 necessarily have those files and sometimes when we were
19 asked to search for files it was about a name and no
20 other information, so we weren't able to make those
21 links in any meaningful way.

22 That's probably as much of an answer as I'm able to
23 offer.

24 Q. I'm just trying to understand how -- you say foster
25 carer files. So children's files, I can understand that

1 they might be in boxes in storage --

2 A. Yes.

3 Q. -- and it they might be all looked-after and

4 accommodated children and they might not be

5 distinguished between children who were in foster care

6 and children who were in residential care, but does the

7 council not have files for foster carers that are

8 separate?

9 A. My understanding is that this is talking about

10 a centralised record of historic foster carers and there

11 was a policy of us keeping only records for 25 years.

12 Q. Yes.

13 A. So we wouldn't necessarily have a centralised register

14 of foster carers that were outwith that time period.

15 Q. I'm just trying to understand how you would -- so

16 I would imagine that if foster carer files exist and

17 they haven't been destroyed because they're -- the

18 people have been de-registered, say, within the last

19 25 years, where would you go to find them?

20 A. We'd have their files. We'd have their individual

21 files.

22 Q. Okay. Would you have electronic files as well?

23 A. Well, it depends on the time period. I mean certainly

24 we're shifting from our current electronic recording

25 system to a new one which is coming out next year, which

1 hopefully will be able to make the interrogation of data
2 much simpler than having to go through old archives.

3 Q. I think there you talked about archived files, so that's
4 one -- so foster carers that have been de-registered.
5 Their files, if they're within the retention period,
6 must be somewhere?

7 A. Yes.

8 Q. If we move on down the page you say above the bullet
9 points:

10 "We have also identified and reviewed an additional
11 117 records to provide the Inquiry with an overview of
12 Fife Council's historical practice ... these files
13 include ..."

14 Then the bottom bullet point:

15 "Archived foster carer files for abuse investigated:
16 2014 up to date."

17 I think that's still looking at archived files; is
18 that right?

19 A. From 2014 --

20 Q. Yes.

21 A. -- to date? Yes. But anything before 2014, it hasn't.

22 Q. You must have current foster carers who were approved
23 perhaps before 2014?

24 A. Yes, and they'd be open. They wouldn't be archived.
25 They would be open.

1 Q. Do you know if any of those files were looked at?

2 A. I don't. I assumed that they all were if they were
3 operating before 2014, but I can certainly check that
4 out. That was an assumption that I made.

5 Q. That would be helpful, thank you.

6 If we look over the page to page 5, at the top of
7 the page there's reference to a complaints log. I think
8 you said earlier that there hadn't been a complaints log
9 previously and that there is now, and I think this tells
10 us the date of that.

11 "We can confirm that prior to 2017 Fife Council did
12 not have a formal or central record of complaints or
13 allegations made about foster carers."

14 You say:

15 "The only formal record of complaints against foster
16 carers identified during our initial file review was the
17 information around financial claims made to the council
18 which were submitted as evidence ..."

19 I think those references there A287i and A287,
20 I think those are the cases that you refer to in your
21 Part D response, which we'll look at in a moment.

22 If we look at the bottom of the page at
23 "Allegations".

24 It says:

25 "The Council accepts that it is highly likely there

1 were other allegations of abuse against Fife Council
2 foster carers over the time frame of this Inquiry,
3 unfortunately Fife Council doesn't hold a centralised
4 record of historic foster careers or children who were
5 placed in foster care. This meant that it was not
6 possible to identify search criteria to identify
7 individual files ..."

8 So the same thing that we've seen before.

9 A. (Witness nodded)

10 Q. We're aware from evidence from the Care Inspectorate
11 that notifications have to be made to them if there's
12 abuse in foster care?

13 A. Yes.

14 Q. Do you know if that material was interrogated?

15 A. I don't. I will check that.

16 Q. I think you note that over the top of the page, the next
17 page, just for completeness. You say that you now keep
18 a record, you hold a log of notifications so it looks as
19 though that was perhaps looked at?

20 A. Yes.

21 Q. "We have a formal process established in 2016 for
22 responding to significant and low-level concerns."

23 Then you refer to material that was held within
24 individual files.

25 A. Yes, so we have three routes, really. One is concerns,

1 just general concerns that need to be picked up in the
2 day-to-day support, management and overviews of foster
3 carers and looking at the kind of environment in which
4 they're supporting children and young people in their
5 care.

6 And there's allegations, which would be picked up
7 through our child protection processes.

8 And there are complaints, which will be picked up
9 through our PINTANA(?) system.

10 So they'll be logged through those three different
11 systems.

12 Q. Okay. If we can look, please, at Part D of your
13 response at FIC-000000504, page 166. Here it says in
14 5.1:

15 "What was the nature of abuse or alleged abuse in
16 foster care?"

17 You note:

18 "There is evidence of complaints against foster
19 carers who are alleged to have sexually and physically
20 abused children in their care."

21 Then the extent at 5.2:

22 "What is the Local Authority's assessment of the
23 scale and extent of abuse in foster care?"

24 The council's response is:

25 "There is evidence of four complaints or civil

1 claims against foster carers for alleged abuse."

2 It says then:

3 "What is the basis of that assessment?"

4 That question is directed at what was the material
5 that you looked at to answer question (a), so from what
6 we've seen in the addendum, it appears that the only
7 source that was looked at to answer Part D was
8 complaints or civil claims that had been made through
9 solicitors, I think?

10 A. (Witness nodded)

11 Q. Is that right?

12 A. Yes, that's what I was assuming, so I can do a -- I'll
13 go back and check that and do further checks as needed
14 with the Care Inspectorate and others.

15 Q. Because that wouldn't be a comprehensive view of --

16 A. Well, the complaints would be through the complaints
17 system, so we would have a log of that. If there'd been
18 allegations and they'd gone through the child protection
19 unit, which was in place at that time, we would have
20 a log of that as well. And it would be on foster
21 carers' individual files but also any child that had
22 been with or who made the initial allegation. So they'd
23 be the sources of information we'd be looking at.

24 I think you were inviting me to also contact the
25 Care Inspectorate --

1 Q. Yes.

2 A. -- to see if they had -- to make sure that we did that
3 check, and I'll certainly bring that forward.

4 Q. I was also trying to get an understanding of where your
5 foster carer files were, because we've heard evidence
6 from some other Local Authorities that they've looked at
7 their foster carer files, insofar as they have them or
8 taken a sample of them, and provided information or
9 carried out an assessment on that basis. But that
10 doesn't seem to be what Fife Council did.

11 A. So are you suggesting that they did an assessment of all
12 their foster carers, all the files they had over that
13 period?

14 Q. We've heard some evidence from Local Authorities who
15 have done that.

16 A. Okay. I can quite confidently say that's not what we
17 have done. We took a different approach. However,
18 we'll certainly go back and make sure that we undertake
19 that and raise any other issues that might come from
20 that.

21 Q. Okay, thank you.

22 Can I ask you, please, to look at some additional
23 material I think that was flagged when we were asking
24 you for some follow-up information. I think you
25 provided us with some details or I think you've provided

1 us with a whole file of one of the people that was
2 identified as having made a complaint. I wonder if
3 I could take you to an excerpt of that now, please, so
4 it's FIC-000000516. We see here that there was
5 obviously a claim made on behalf of somebody against
6 Fife Council. If we go on to page 8, I think there was
7 a report for risk management carried out. Are you
8 familiar with this case?

9 A. Not the full details. Obviously I've read this, but --

10 Q. Yes.

11 A. Yes.

12 Q. There seems to have been a risk management report.
13 Somebody has read over the file and written a report on
14 the contents and there was an assertion that this child
15 had suffered abuse in the care of a foster parent and
16 there's some background about the material that led to
17 the person being taken into care.

18 If we scroll down the page, at the bottom of the
19 page in the final paragraph there is reference to
20 I think the carer having an offence of soliciting, which
21 was described in the statement. However, it says:

22 " ... in the review report of June 1972, it is
23 stated that 'there has been no suggestion of any
24 recurrence of Mr X's offence and I think this was
25 an isolated incident'."

1 The reviewer says:

2 "If this is a reference to soliciting homosexual
3 contact, it illustrates the level of understanding of
4 such behaviour which was common at that time. There are
5 no case records by the social worker and therefore no
6 record to suggest that there was any exploration of
7 circumstances of the offence, the age of the victims or
8 the safety of the children."

9 That seems to have been one of the issues that the
10 reviewer of this file highlighted.

11 Did you have a look at this document as well and
12 also notice that as a concern?

13 A. I think that was a theme coming out around understanding
14 of either sexually harmful behaviours or predatory
15 behaviours, about looking at how we supported young
16 people to give their accounts and also recordings of
17 children and young people making allegations or making
18 complaints. So certainly that was a feature, we felt,
19 of the cases -- the documents that we looked through.

20 Q. There seems to have been certain concerns highlighted by
21 the reviewer. Just above the paragraph "Conclusion",
22 the paragraph:

23 "It is interesting that in case records there are
24 references to the foster carers expressing reluctance to
25 be 'bothered' by social workers and stating that the

1 children do not appreciate their visits, feeling afraid
2 that this may mean them being removed from home.
3 Descriptions of contact with the children does not bear
4 this out."

5 Again if a foster carer is saying, "Stay away",
6 would that also be ringing alarm bells?

7 A. Absolutely, absolutely.

8 Q. Then in the conclusion it says:

9 "By today's standards, the social work department,
10 insofar as there are records, would not have been
11 considered to have responded appropriately to concerns
12 raised by the headteacher."

13 The person says:

14 "From the many other records that I have read, I am
15 aware that some social workers would have spoken to the
16 child and some would not. There does not appear to have
17 been any consistent guidance given on such issues at the
18 time."

19 So the reviewer seems to be highlighting an issue
20 with response to the allegation.

21 A. (Witness nodded)

22 Q. Then it says:

23 "Similarly the offence described and perhaps alluded
24 to in the review report would today cast doubt on his
25 suitability as a carer ..."

1 I'm assuming that's the offence of soliciting.

2 "... and, if his victims were children, would have
3 resulted in their immediate removal from his care."

4 A. Yes, that would be the case today.

5 Q. In the final paragraph the reviewer says that they are:

6 " ... convinced of the veracity of the allegations,
7 having read the statement and spoken to [another
8 person]."

9 There's reference -- which would be relevant to the
10 civil claim, I think?

11 A. (Witness nodded)

12 Q. I think is this is one of the complaints highlighted in
13 your Part D and there seemed to be a number of failures
14 highlighted in this record, would you agree?

15 A. Yes, and to take the record as it stands.

16 Q. Can I ask you, please, about a more recent conviction of
17 a carer, Rachel Lessels. Are you familiar with that
18 conviction?

19 A. Yes.

20 Q. Can I ask you, please, to look at JUS-000000100. We see
21 that this is Sheriff and jury. I think if we go perhaps
22 first it might be better to go on to page 3, please. We
23 can see this is at Dundee Sheriff Court on
24 18 October 2021. If we scroll down we can see at 12.14
25 the court reconvened as the jury advised they had

1 reached a verdict. It's up a little bit, please.
2 There. It was: unanimous guilty on charge 1, with
3 certain deletions; unanimous guilty on charge 2, with
4 certain deletions; unanimous guilty on charge 3;
5 unanimous guilty on charge 4; unanimous guilty on charge
6 5 as libelled; and then charge 6 was found not proven.

7 So with that context if we can go back to the case
8 itself. I think that we can see that there were, on the
9 first page, three charges in relation to wilful
10 ill-treatment, so offences in terms of the Children and
11 Young Persons (Scotland) Act 1937, assault.

12 A third charge, I think of another charge under the
13 1937 Act.

14 Then on the next page we see charges 4 and 5, which
15 again I think --

16 LADY SMITH: That's assault and wilful ill-treatment under
17 the 1937 Act again, isn't it?

18 MS INNES: Yes, and I think, my Lady, there are three
19 complainers. It's obviously redacted, but there are
20 three complainers here.

21 The charges seem to be from 2009, behaviour around
22 2009, and 2006, 2008, so that sort of period.

23 In respect of that particular case, I appreciate
24 that it's a recent conviction, have the Local Authority
25 undertaken any kind of significant case review or

1 internal review or learning review following on this
2 conviction?

3 A. There hasn't been a significant case review, so it
4 hasn't come through the formal process of the Child
5 Protection Committee. However, we have looked at
6 an internal review and unpicked this in terms of what
7 the staff culture was, what the thinking was, what were
8 the eyes and the ears in seeing these children in the
9 care of Rachel Lessels and looking at any other
10 information we had, both from the supervising social
11 worker of them as a carer but also the social workers of
12 the children in her care. And from that has come the
13 refocus on the absolute need for active, up-to-date
14 chronologies and to be able to take on information that
15 might be deemed as soft intelligence that comes to the
16 fore, and having opportunity to look at that through
17 formal processes.

18 Reading it in its entirety, you think: how could
19 that have slipped under the radar? That's something
20 we've held very close to us in trying to understand and
21 working with the staff teams to be able to give
22 assurances that this kind of behaviour won't present
23 itself again. We've also had conversations with foster
24 carers around expectations and unannounced visits, as
25 well as structured announced visits and annual reviews

1 and looking at that kind of wide range of information
2 we'll take in our considerations for ongoing assessments
3 of carers.

4 Q. Is there a report from this review or any document or
5 action plan that you would be able to share with us?

6 A. I'll get the -- there was an action plan, so I'll get
7 the action plan to the court.

8 Q. That will be really helpful, thank you.

9 Can I ask you, finally, to look back to
10 FIC-000000504 and to Part B of your response at page 40.

11 In respect of the question as to whether the Local
12 Authorities accepts that any children in foster care
13 were abused over the relevant period, it says it is
14 noted that complaints were received. The question is
15 slightly different and perhaps reflecting on the fact
16 that there's a conviction, I don't know whether the
17 Council's response might be different to that?

18 A. I think we do accept, yes.

19 Q. Then if we move on, please, to page 41, "Acknowledgement
20 of systemic failures", the answer of the Council here
21 is:

22 "Fife Council does accept that the historical
23 systems did not provide sufficient supervision or
24 support to foster carers, and therefore failed to ensure
25 protection of looked-after children."

1 Can you perhaps explain that a little bit more?

2 A. Well, my understanding is that the procedures for
3 recruiting and supervising foster carers and recording
4 children's incidents or children's allegations against
5 foster carers wasn't as robust as it needed to be and
6 when children and young people were making or giving
7 comments, that they potentially weren't being acted on
8 formally as they should have been.

9 Q. If we move to 3.3:

10 "Acknowledgement of failures/deficiencies in
11 response."

12 The question there is:

13 "Does the Local Authority accept that there were any
14 failures and/or deficiencies in its response to abuse or
15 allegations of abuse?"

16 The Council's answer here is:

17 "There is no evidence of a failure to respond to
18 allegations of abuse during the time period."

19 Is that correct, having looked at the report?

20 A. I think there may be gaps in that that we're going to
21 have to look back on. But also it's about formal
22 allegations and that's something very different to abuse
23 happening. So did we respond to formal allegations?
24 We've got a notification of those that were formal and
25 that were responded to, but that's different to whether

1 abuse happened and I think we've accepted that abuse --
2 the potential for abuse to happen because of poor
3 procedures was in fact the case.

4 LADY SMITH: It's also importantly in relation to whether
5 it's accepted there were any deficiencies in the
6 response.

7 A. I think in relation to those four allegations, we've
8 probably said that the -- there was no failure, but
9 I think it's a much wider question. So I would say that
10 there were some deficiencies in how we were hearing and
11 how we were responding.

12 LADY SMITH: It's one thing to respond --

13 A. Yes.

14 LADY SMITH: -- but then perhaps the more important question
15 is --

16 A. Yes.

17 LADY SMITH: -- how was that response carried out?

18 MS INNES: Thank you very much, Kathy, for your evidence.
19 I think you're aware that it's likely that you might be
20 recalled later in this case study to respond to
21 applicant evidence and perhaps, given what you've said
22 today, provide some further evidence to the Inquiry.

23 A. (Witness nodded)

24 MS INNES: But those are all the questions I have for you
25 just now.

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