

Thursday, 3 November 2022

1

2 (10.00 am)

3 LADY SMITH: Good morning and welcome back to oral evidence  
4 in our foster care and boarding-out case study, as we  
5 return to Local Authority evidence and move this morning  
6 to Perth and Kinross as planned, yes?

7 MS INNES: Yes, my Lady. The witness, Jacquie Pepper, is  
8 here.

9 LADY SMITH: Thank you.

10 Jacquie Pepper (sworn)

11 LADY SMITH: Before we begin, help me with this. How would  
12 you like me to address you? Would you like me to use  
13 your first name --

14 A. Yes, that's perfectly fine, thanks, my Lady.

15 LADY SMITH: Is that alright, Jacquie?

16 The red folder has documents in which no doubt  
17 you'll recognise, they come from your council, and thank  
18 you for the help we've been given in getting those here.  
19 But also we'll bring documents up on screen as we go  
20 through your evidence and you might find it useful to  
21 use either the screen versions or the folder versions,  
22 whichever works.

23 Otherwise, if you have any questions or queries,  
24 please speak up, don't hesitate to ask, or if there's  
25 anything else I can do to help you give your evidence as

1 clearly and comfortably as you can. Please don't worry  
2 about it, and I know there's an awful lot of material  
3 you've given us and this isn't an oral examination.  
4 It's rather what we hope will be a constructive  
5 discussion that will further our learning and mine what  
6 nuggets you can give us and help us with.

7 I usually take a break at about 11.30, but if you  
8 want a break at any other time, just say, would you?

9 A. Yes, thank you very much, my Lady.

10 LADY SMITH: Very well. If you're ready, I'll hand over to  
11 Ms Innes and she'll take it from there. Thank you.

12 Questions from Ms Innes

13 MS INNES: Good morning, Jacquie. Could I start by asking  
14 you your date of birth, please?

15 A. My date of birth is [REDACTED] 1962.

16 Q. You've provided the Inquiry with a copy of your CV and  
17 in that you tell us that you qualified as a social  
18 worker in 1986?

19 A. That's correct.

20 Q. You commenced work that year as a social worker I think  
21 with Strathclyde Regional Council as a generic social  
22 worker and then I think you moved from there to Wales?

23 A. I did, yes.

24 Q. And you worked in Wales from March 1991 to April 1999;  
25 is that right?

1 A. 1998, actually.

2 Q. 1998, okay. Then you spent a period in -- I think you  
3 were briefly in Scottish Borders?

4 A. That's correct.

5 Q. Again working as, at that time, a senior social worker?

6 A. Yes.

7 Q. And that was in children and families?

8 A. Yes, that's correct.

9 Q. In September 1999 you tell us that you moved to the City  
10 of Edinburgh Council and you were a Senior Officer  
11 Childcare Partnership I think was your job title?

12 A. Yes.

13 Q. You were lead officer for a specific project; is that  
14 right?

15 A. It was in relation to the Child Care Strategy as in  
16 children's care, not -- care as in out-of-school care or  
17 childminding --

18 Q. Yes.

19 A. -- and also the sure start programme, yes.

20 Q. Then in March 2003 you moved to the Care Commission and  
21 you worked there as a team manager until August 2005?

22 A. Yes.

23 Q. In that role you say that you managed registration and  
24 inspection of all care services, so it was a variety of  
25 care services at that time?

1 A. That's correct. That's the way it was organised at that  
2 point.

3 Q. Then you moved to Her Majesty's Inspectorate of  
4 Education?

5 A. Yes.

6 Q. Working as an inspector up until April 2011.  
7 Then from there you moved to the Care Inspectorate.

8 A. Mm-hmm.

9 Q. Where you worked initially as a senior inspector and  
10 then as Head of Inspection for Children's Services and  
11 Criminal Justice?

12 A. Yes, that's correct.

13 Q. In June 2014 you moved to Perth and Kinross Council; is  
14 that right?

15 A. I did.

16 Q. I think you've held various roles since moving to Perth  
17 and Kinross Council. Initially you were Head of  
18 Services for Children, Young People and Families?

19 A. Yes.

20 Q. Then in May 2017 you became Chief Social Work Officer,  
21 which you still are?

22 A. Yes.

23 Q. Although your job has changed?

24 A. Yes.

25 Q. May 2018 you were Deputy Director of Education and

1 Children's Services, and then earlier this year you  
2 became Chief Officer of Integrated Health and Social  
3 Care?

4 A. That's correct.

5 Q. If I can move now to the response that Perth and Kinross  
6 Council provided to the Inquiry, obviously you were  
7 working with Perth and Kinross Council over the period  
8 that the response to the Section 21 notice was being  
9 prepared --

10 A. Yes.

11 Q. -- and subsequently. In relation to the preparation of  
12 the response, were you involved in that? Did you head  
13 that up, for example?

14 A. Yes, thanks. We established a steering group of various  
15 staff with various responsibilities and I led that  
16 steering group and led the response to the Inquiry.

17 Q. We'll come in a moment to look at the methodology that  
18 you deployed, but if we look at what's on the screen in  
19 front of us just now at PKC-000000035 and question 1.1,  
20 we can see there that Perth and Kinross has obviously  
21 been in existence since April 1996. Prior to that it  
22 formed part of Tayside Regional Council and in the early  
23 period, so prior to 1975, the relevant social work  
24 functions were split between Perth Town Council, Burgh  
25 Councils and Perth and Kinross Combined County Council?

1 A. Yes.

2 Q. Those were the authorities that were in place prior to  
3 1975?

4 A. Yes, that's correct.

5 Q. If we can look, please, at another document in which you  
6 set out the methodology that you adopted, so it's  
7 PKC-000000121 and here you're addressing questions posed  
8 by the Inquiry in relation to the methodology of case  
9 file review that you carried out?

10 A. Yes.

11 Q. I wonder if you can tell us how you went about that?

12 A. Thank you very much. Yes, all our social work records  
13 for the period in question were contained within our  
14 electronic social care management system called SWIFT.  
15 And you'll see there that because these were scanned in  
16 a project that took place in 2015, those handwritten or  
17 typed documents were scanned into our electronic records  
18 and we were aware that some -- or the paper files  
19 relating to the Inquiry were destroyed at the point of  
20 the completion of that project.

21 So we embarked upon a search of those records and  
22 you'll see from our submissions that we screened all  
23 available records for children who had been in foster  
24 care, and that was over 2,700 records, and we also  
25 established the records in relation to known foster

1 carers for the period as well.

2 So the methodology that we deployed was engaging  
3 staff -- current staff with familiarity with our  
4 electronic system in a search ... in a stage 1 search of  
5 screening all of those records, and that was to screen  
6 in, if you like, content within those records that  
7 related to allegations of abuse in those foster care  
8 settings.

9 Q. Okay, so if we look at stage 1 at the moment, you  
10 provided us with some documents which were the  
11 instructions I think that were given to staff involved  
12 in this so if we can look, please, at PKC-000000124,  
13 first of all. The first couple of pages set out  
14 a process how the person would access the files. If we  
15 go on to page 2 in the bottom part of the page it talks  
16 about what the file readers should do at the time of  
17 accessing the documents?

18 A. Yeah.

19 Q. At the bottom of the page it refers to keywords you may  
20 wish to search on?

21 A. Yes.

22 Q. We'll come back to that in a moment.

23 Then if we go on to the top of the next page, you  
24 underline that the reader is looking for evidence that  
25 the child or young person was abused or alleged to have

1           been abused by the carer or foster carer. Nothing else  
2           at this stage. And you say remember it's about abuse in  
3           foster care --

4   A. Yes.

5   Q. -- it's not other issues that they should be  
6           highlighting.

7   A. Mm.

8   Q. If we scroll down below, there's reference to a template  
9           and then it says that the following information should  
10          be recorded?

11   A. Yes.

12   Q. Date of allegation, details of allegation,  
13          de-registration information and anything other relevant,  
14          and then once that was done it would be passed to  
15          Margaret Steel, who I assume is maybe a team leader?

16   A. Margaret's our Business Resources Manager, yes.

17   Q. Then there's an instruction that if there was any doubt  
18          as to what the person was reading or interpreting --

19   A. Yes.

20   Q. -- then that should be escalated?

21   A. Yeah.

22   Q. If there were any questions.

23                If I can go to PKC-000000127, this is the list of  
24                words that you gave, if we scroll down a little we can  
25                see the list that you suggested. So various words like



1 "abuse", "assault", "court", "complaints".

2 A. Yeah.

3 Q. "Charges" or "charged". So a variety of different words

4 there that --

5 A. Yes.

6 Q. -- the file readers were to search through.

7 At stage 1 do you know were the readers relying

8 solely on this electronic search as a first scan?

9 A. Yes, because all our documentation's on that system.

10 Q. Okay. Sometimes it can be quite difficult to have

11 an effective electronic search of a document --

12 A. Yes.

13 Q. -- if there's handwritten documents within the files,

14 for example.

15 A. Yes, I think we or appropriate staff trialled this as

16 a method to see its efficacy, but I think we acknowledge

17 that there will be situations where some of the

18 handwritten documentation or even typed documentation

19 may not be as clear as we might hope and that therefore

20 some things may not have the clarity in the scan

21 document that they may have in the electronic means by

22 which we record information now.

23 Q. So that was your first screen?

24 A. Yes.

25 Q. I think the file readers were to complete a template

1 following that screen, whether it was a child's file or  
2 a foster carer file?

3 A. Mm-hmm.

4 Q. Then you went to another stage and if we could look,  
5 please, at PKC-000000128, we see there that there's  
6 a further template, which I understand to be the  
7 template that was used at the second stage. Can you  
8 tell us what was happening at the second stage of  
9 review?

10 A. Can I just refer you to stage 3, because if there was  
11 any positive identification at that initial screening  
12 process then those cases would be considered for  
13 a fuller review and that review would have been  
14 undertaken by professional staff, either existing staff  
15 with social work qualifications or recently retired  
16 staff that we drafted in to complete that exercise.

17 Q. Okay. So which files went to stage 2 and what did that  
18 involve?

19 A. Stage 2, we carried out an exercise -- we originally had  
20 intended to sample 200 children at stage 2, because  
21 stage 2 was much more about -- less of a focus on  
22 allegations of abuse but much more on the practice in  
23 relation to foster care and the practices across the  
24 time frame in terms of all of the questions around  
25 culture, ethos, the nurture and care that children were

1 receiving, so it was for that intention.

2 Q. So that was a separate exercise?

3 A. Yes.

4 Q. I think you said you intended to sample 200 children's  
5 files?

6 A. Yes.

7 Q. But I think that you tell us in your response that you  
8 ended up being able to look at 100 I think before  
9 lockdown?

10 A. That's correct.

11 Q. If we move to the stage 3 template so that we can see  
12 that, it's at PKC-000000129, and this seems to be  
13 a template with more questions about, for example, who  
14 were the foster carers, what was their registration  
15 status, what checks were carried out, who else resided  
16 in the household, were regular checks carried out. Then  
17 it goes on on page 2 to talk about other people in the  
18 household, for example it covers fostering agreements  
19 and whether they were in place.

20 A. Mm-hmm.

21 Q. Then if we go to page 3 it talks about moves of  
22 placement, how was the move managed, was the child  
23 supported, and it obviously goes on from there. I mean  
24 this is quite a lengthy template.

25 A. Yes.

1 Q. That was the template that was completed at stage 3 when  
2 you were looking at a file in detail?

3 A. Yes, that's correct.

4 Q. Okay. If we can maybe have a look at -- yes, if we can  
5 go back to PKC-000000121 again and if we can move to  
6 page 2, at the bottom of the page there's reference  
7 there to 38 files being read?

8 A. Yes.

9 Q. Is that the number of files that were looked at in  
10 detail or was it more than that?

11 A. No, those are the numbers of files that we looked at in  
12 detail at the point of our -- up to the point of our  
13 submission of our Section 21 notice.

14 Q. Okay.

15 A. Some of those records were identified through the  
16 stage 1 screening process. Others were already selected  
17 because of the knowledge that we had within our staff  
18 group and former staff around cases that had led to  
19 convictions.

20 Q. Okay. If we can move on to Part D of your response and  
21 we'll come back to the convictions in a moment, but one  
22 of the things that you highlighted in your Part D  
23 response was a historical review that you were able to  
24 find. If we can look, please, at PKC-000000035 and  
25 page 318, and in the middle of the page there's

1 a question about external investigations and you refer  
2 there to having found a national inquiry report from  
3 1975 within the council's archives?

4 A. Yes.

5 Q. If we can look, please, at that document, so  
6 SGV.001.008.6880.

7 If we look on to page 6. We see that there was  
8 an appointment of a committee in 1974 to report to the  
9 Secretary of State for Scotland in respect of a child,  
10 Richard Clark.

11 I appreciate this is a historical document. Do you  
12 know what gave rise to this report?

13 A. I do from reading this report. The initiation of the  
14 inquiry followed the admission of a child to hospital  
15 with serious head injuries and that those serious head  
16 injuries had occurred in the care of a family into which  
17 the child had been placed and there's some consideration  
18 about whether it was the child's birth family that had  
19 placed him into the care of that family or whether that  
20 was the responsibility of the town council at that point  
21 in time.

22 Q. So there was an issue about whether the town council had  
23 responsibility --

24 A. Yes.

25 Q. -- I think in terms of the arrangement. I think that

1 the conclusion, if we go on to page 24, at the bottom of  
2 the page, in the last couple of sentences it says:

3 "The boys were neither received into care by the  
4 town council at any relevant time."

5 However, if we go on over the page, it then says:

6 "However, on [REDACTED] the boys, by virtue of their  
7 period of residence with the [people who they were  
8 living with at the time of the injuries] became foster  
9 children within the meaning of section 2(1) and 3(f) of  
10 the 1958 Act."

11 Essentially I think the conclusion was that it was  
12 a private fostering arrangement, but at paragraph 57 it  
13 says that the town council came under a statutory duty  
14 to secure the welfare of the boys on [REDACTED] and  
15 remained under that duty until the boy was admitted to  
16 hospital.

17 A. Yes.

18 Q. So I think that was the -- as you said, that was one of  
19 the issues that the inquiry had to address?

20 A. Yes.

21 Q. If we can move on please to page 35, there are some  
22 general conclusions there. At paragraph 88 there's  
23 reference to I think various employees of the town  
24 council and it says that they hadn't "at any time  
25 attempted to get the boys to talk about their feelings".

1 I think one of the children was expressing to somebody  
2 else in the community that he didn't want to go home,  
3 that he wanted to stay with her.

4 A. Yes.

5 Q. She asked about bruises that he had. So there appeared  
6 to be some concerns being raised but the social workers  
7 weren't speaking to the children directly about it.

8 A. Yes.

9 Q. I assume you would say that you do need to speak to  
10 children about what's going on?

11 A. Absolutely. I think from reading this record here of  
12 the enquiry report there were a number of occasions  
13 where the child was seen by a number of people to have  
14 bruising or observed to be not himself and on some  
15 occasions those were notified to social workers and on  
16 other occasions they weren't, so there are some real  
17 lessons here in terms of that observation and the need  
18 to see the child.

19 I think there are also indications where the child  
20 was examined but not examined fully, so it's a -- you  
21 know, there are some significant lessons from this  
22 report.

23 Q. Yes. I think there were medical examinations when he  
24 wasn't examined fully --

25 A. Yeah.

1 Q. -- that are highlighted in the report.

2 At paragraph 90 it says:

3 "We feel that a case so complex and unusual as this  
4 merited a case conference although none was called  
5 between February and May. If such a conference had been  
6 called it is possible, as Mr Burrowes told us, that  
7 [people] from the RSSPCC or [the lady to whom the child  
8 had made disclosures] as well as [the social workers].  
9 At such a conference it is reasonable to assume that the  
10 discussion would have taken place which would have  
11 focused more clearly the problems inherent in the  
12 situation ..."

13 I suppose that's something else that's highlighted  
14 in the report, the need for a discussion between  
15 relevant professionals?

16 A. Yes. I think in reading the report in the round, you  
17 can draw conclusions from this that there were actions  
18 being taken in a singular fashion rather than in  
19 a collective fashion, so I think that's what this  
20 paragraph is referring to, that it would have been  
21 preferable to hold a multi-professional case conference  
22 in this instance, yes.

23 Q. Then at paragraph 91, the issue highlighted there is  
24 a social work department requiring their social workers  
25 to undertake all types of work, as in Perth, and I think



1 historically social workers did have a generic caseload,  
2 I think you mentioned that at the beginning of your  
3 career you had a generic caseload?

4 A. (Witness nods)

5 Q. Then it says there:

6 "At the present time it appears that social work is  
7 moving from a situation where specialisms were rigidly  
8 demarcated to one where the demarcation between them is  
9 less clearly defined but where, nevertheless,  
10 specialised knowledge is required for efficient  
11 practice. We believe that when work is being allocated,  
12 more attention should be paid to relating the tasks and  
13 problems which the case presents to the competence and  
14 experience of the worker who is to undertake it."

15 Then it says:

16 "While a social work department may be responsible  
17 for all branches of social work within its area we are  
18 doubtful whether it follows that every social worker  
19 should be considered to be properly equipped to deal  
20 with every case for which the department is  
21 responsible."

22 I suppose there are a couple of things within that,  
23 one highlighting the need for the social worker to have  
24 the relevant knowledge and experience.

25 A. Mm-hmm.

1 Q. Is that something that has changed over time, it's  
2 different now?

3 A. Well, currently the social work training and our  
4 organisation is in specialisms, so -- and our child  
5 protection response and our foster care support and  
6 duties around that tend to be within specialist teams  
7 where staff have the relevant knowledge, expertise and  
8 continued development in that particular area.

9 I think in this report reflecting on the structure  
10 at that time that's also appended in the report,  
11 I suspect that there may have been less staff around at  
12 that point in time as well, so I think there were --  
13 there's some references to capacity as well as to the  
14 need for expertise in this particular area.

15 Q. Yes, I think you mentioned structure there and there's  
16 a structure at page 41, which shows us that the Director  
17 of Social Work had responsibilities for various  
18 departments and I think we might -- it's probably quite  
19 hard to see, but there are obviously different areas,  
20 including management of home, centres, temporary  
21 accommodation, home help organisation, as well as  
22 community social work. And if we see that the social  
23 work team itself seemed to be two senior social workers,  
24 a social work assistant, a social work trainee, so ...

25 A. Mm.

1 LADY SMITH: Jacquie, I appreciate this narrative is of its  
2 time, but as I read comments such as "while the social  
3 work department may be responsible for all branches of  
4 social work, we're doubtful whether it follows that  
5 every social worker should be considered to be properly  
6 equipped to deal with every case for which the  
7 department's responsible", end story. It sounds quite  
8 defeatist and what we're not seeing in this document,  
9 maybe it happened elsewhere after that, is any sign of  
10 them flagging up something needs to be done about this.

11 A. Yes.

12 LADY SMITH: We can't go on like this, particularly where  
13 the interests of children are at stake.

14 A. And I think in terms of this being a historical document  
15 and of its time, recognising the legislation within  
16 which the social work service was operating would be  
17 perhaps looser than it is now and we have private  
18 fostering regulations and legislation around that that  
19 was not in place at that point of time.

20 LADY SMITH: Yes.

21 A. Well, there were references to it, but there's national  
22 guidance and expectations around all of that.

23 So it is a historical document, but I think the  
24 lessons in this case that relate to foster care, private  
25 fostering, and arrangements within families and the

1 complexities around that are still around for us today.

2 LADY SMITH: Yes. It perhaps wasn't being grasped as fully  
3 as it should have been at that time, although they did  
4 pick up the failure of the council to recognise its own  
5 legal duties. They couldn't ignore this set of  
6 circumstances.

7 A. Yeah.

8 LADY SMITH: That these children actually came under their  
9 remit once this placement had gone on for the time that  
10 it did.

11 A. Mm-hmm.

12 LADY SMITH: The other thing I was struck by was earlier on  
13 in the report of what had been happening with the  
14 children was one of the children being told not to tell  
15 tales when they were trying to explain what was  
16 happening.

17 A. Mm-hmm.

18 LADY SMITH: We've seen that elsewhere, an assumption that  
19 the children are lying and the people caring for them  
20 are fine and nothing bad is happening at all.

21 A. Yeah. Can I respond to that?

22 LADY SMITH: Yes, please do.

23 A. Because I think in addition to that I think what we see  
24 is an identification with the adults --

25 LADY SMITH: Yes.

1 A. -- over and above the child. So looking at this -- you  
2 know, with some distance in terms of time -- you can see  
3 how the people involved in this case were identifying  
4 with the adults' situation and seeing it through that  
5 lens rather than the lens of the child.

6 LADY SMITH: Yes. Thank you.

7 Ms Innes.

8 MS INNES: Thank you, my Lady.

9 If we can move on to PKC-000000131, this is a minute  
10 of a meeting that took place after this report. So if  
11 we scroll down, social work committee 20 February 1975,  
12 and it refers to the report of the committee of inquiry  
13 and then at the bottom it says:

14 "Resolved."

15 So the committee resolved:

16 "The following procedures, so far as not already  
17 operative, be adopted in the social work department."

18 Then for example number one:

19 "In allocating social work cases, particular  
20 attention be paid by the responsible member of staff to  
21 the competence and experience of the social worker to  
22 whom it is proposed to be allocated."

23 That's picking up on the conclusion that we just  
24 looked at.

25 A. Yes.

1 Q. Then there's at (ii), reference to:

2 "A standing case conference subcommittee consisting  
3 of senior members of staff of social work department,  
4 Tayside health board, police, medical profession be  
5 established to be called upon at short notice ..."

6 That seems to be taking forward the idea of a case  
7 conference?

8 A. I also -- I would also suggest it's also -- you know,  
9 the start or the kind of commencement of the Child  
10 Protection Committees and the responsibilities from  
11 a multi-agency perspective, yeah.

12 Q. Then if we go over the page, there's reference to social  
13 workers giving immediate consideration in all cases of  
14 complex inter-family situations to the availability of  
15 bringing in, without a delay, a second social worker in  
16 the case. I think that might relate to something that  
17 we didn't look at, which was the social worker being the  
18 same for different children and different families.

19 A. Yes.

20 Q. Then the next point again refers to the need for  
21 a social worker with specialist skills, so flagging that  
22 up.

23 Then at (v):

24 "Social workers dealing with cases involving  
25 children be instructed to encourage the children to

1 express themselves and to confide in them."

2 So that seemed to be a specific resolution at that  
3 time.

4 A. Yes. Which is about elevating the child's voice, which  
5 is something that, as you know in current practice is  
6 emphasised. It's interesting to read that and to see  
7 that being recommended in the 1970s and to see how that  
8 resonates today in Perth. Because social workers  
9 currently and in my experience in Perth very much see  
10 themselves as being advocates for children.

11 LADY SMITH: What I don't think we see at that stage is  
12 a recognition that it's one thing to tell social workers  
13 that they have to do better in their communications with  
14 children and in building children's trust and  
15 confidence, but no sign of training them as to how you  
16 do that. Would I be right in thinking that came much  
17 later?

18 A. Yes.

19 LADY SMITH: Thank you.

20 MS INNES: We can see other recommendations there relating  
21 to private fostering arrangements and suchlike. For  
22 example, if we just look at number (ix):

23 "A confidential register of vulnerable families and  
24 a system of collecting relevant information from  
25 [various sources] be established in the social work

1 department."

2 I'm not sure whether that's like a precursor to  
3 an at risk register or --

4 A. It seems so, because I know from reading a number of  
5 documents and case histories and files myself that there  
6 is reference to arrangements to support complex families  
7 or problem families and then the child at risk register,  
8 so we see references to that development over time.

9 Q. I'm going to move on from that particular report that  
10 you drew to our attention in your response and I want to  
11 move on to look at some convictions that you told us  
12 about and there are four convictions that we're aware of  
13 in respect of Perth and Kinross area of responsibility  
14 and three of those we've not seen before, so if we could  
15 look at those, please.

16 JUS-000000049 is a conviction of a Victor Smart from  
17 4 October 1993.

18 Your Ladyship will see that he was convicted of six  
19 charges of sexual offences.

20 He was sentenced, if we scroll down to the bottom,  
21 I think to 12 years in total, four on the first three  
22 charges and then eight, four and eight in respect of the  
23 remaining charges, but the sentences on the remaining  
24 charges running consecutively to the sentence on the  
25 first three.



1           If we can look over the page, the indictment  
2           includes all of the charges, so he was only convicted of  
3           certain charges.

4           Looking at the first charge, a charge of sexual  
5           offences in respect of a period 1 June 1988 to  
6           13 January 1989.

7           If we then look down to the next charge, charge 3,  
8           of which he was convicted, that's another charge of  
9           sexual offences for a different period, 1 June 1988 to  
10          May 1991.

11   LADY SMITH: This is another complainer.

12   MS INNES: It's another complainer, my Lady. There were  
13          four complainers.

14   LADY SMITH: This one's a bit younger. The one in charges 1  
15          and 2 was about 11.

16   MS INNES: Yes.

17          Then over the page at 5, so this refers again to  
18          sexual offences between 1 June 1988 and 4 April 1992,  
19          and again sexual offences in respect of a child born in  
20          1980.

21          The same complainer is referred to -- at one of the  
22          later charges, sorry.

23   LADY SMITH: 6?

24   MS INNES: No, he wasn't convicted of that. If we scroll  
25          down to 8(a), which is at the bottom of the page, this

1 was a period May 1991 to 8 May 1992, and that complainer  
2 was born in 1979. And that charge is in respect of the  
3 same complainer at charge 3. So charge 3 and  
4 charge 8(a) are the same complainer.

5 Then if we go on over the page to page 4, and if we  
6 scroll down to 10(a), so it's under "or alternatively",  
7 so this is the same complainer that we saw at charge 5  
8 and again a period 5 April 1992 to 4 April 1993.

9 So the period of offending covered from 1 June 1988  
10 to 9 May 1993, and, as I've said, was six charges in  
11 respect of four complainers.

12 LADY SMITH: They were ranging in age from about nine or ten  
13 years old to 12/13 years old?

14 MS INNES: Yes.

15 If we can look back, please, to PKC-000000121, if we  
16 look at page 7 at the bottom of the page you were asked  
17 by the Inquiry whether there had been any internal,  
18 external review or significant case review. If we look  
19 at Victor Smart, who is referred to at the bottom of the  
20 page, in relation to that carer you say:

21 "... we can find no trace of any internal or  
22 external or significant case review or initial case  
23 review taking place."

24 They pre-dated the guidance.

25 If we go on to the next paragraph you note:

1            "... there does appear to have been an internal case  
2 file audit carried out by Hugh O'Brien."

3            If we look down to the next paragraph it says:

4            "Having reviewed our files for Victor Smart again,  
5 we can also see that the Scottish Office commissioned  
6 Roger Kent to carry out a wider review of arrangements  
7 for children in care in Scotland and the case file  
8 indicates that information about the Smart case along  
9 with information about the Carrie case [which we'll come  
10 to in a moment] and other materials ... was submitted to  
11 the review."

12           I think that's what you were able to find in terms  
13 of follow-up to Victor Smart's conviction.

14           Was that all that you were able to find?

15 A. Yes.

16 Q. And it was an audit, it wasn't a review with  
17 recommendations, for example, just to be clear?

18 A. (Witness nods)

19 Q. Just to save us coming back to this document, if we look  
20 back again to page 7 and the bottom of the page where  
21 you're referring to a former foster carer,  
22 William Carrie. You say that you can find no trace of  
23 internal or external or significant case review. Then  
24 in the next paragraph you say:

25           "We have now located within a separate file a report

1           dated summary of investigative work in relation to this  
2           case, which appears to have been carried out as part of  
3           wider work undertaken prior to the Scottish Office Kent  
4           review."

5           Again, you found a document I think which had  
6           a summary of the investigation that was carried out. Is  
7           that correct?

8    A. Yeah. I would need to be shown that document to  
9           familiarise myself with it.

10   Q. Okay. I don't want to go to that just now --

11   A. That's fine, okay.

12   Q. But we do have that report from you, which as you say  
13           was a summary of investigative work which was collated  
14           and I think you tell us sent by you to the Kent Review  
15           at that time.

16   A. Yeah.

17   Q. But again I don't think it contained -- it wasn't  
18           a review in the sense of providing recommendations.

19   A. Mm-hmm.

20   Q. If we can look, please, at the conviction of  
21           William Carrie then and that's at JUS-000000051. This  
22           was a conviction from 14 September 1994 and we can see  
23           that he was convicted of two charges of sexual offences  
24           and I think we understand from information that you've  
25           given us that he pled guilty to those charges.

1 A. (Witness nods)

2 Q. We see that the sentence was for a period of 18 months  
3 on charge 1 and two years on charge 3, period running  
4 concurrently. If we look on over the page to page 2,  
5 charge 1, we see a charge of sexual offences between  
6 [REDACTED] 1988 and [REDACTED] 1990 in respect of a child who was  
7 then aged between 9 and 11.

8 Then if we scroll down to charge 3, we see another  
9 charge of sexual offences against another girl who was  
10 then aged 12, that was between [REDACTED] 1993 and  
11 [REDACTED] 1994. Those girls were both children in  
12 foster care with Mr Carrie; is that your understanding?

13 A. Yeah.

14 Q. Okay.

15 Those are two of the convictions you told us about  
16 and those both relate to matters in the 1990s. You're  
17 obviously also aware of the conviction of somebody  
18 called Pol Martin?

19 A. Yes.

20 Q. I think you know that Pol Martin gave evidence to the  
21 Inquiry?

22 A. Yes.

23 Q. Has Perth and Kinross been carrying out some  
24 investigations into the circumstances surrounding  
25 Mr Martin's period as a foster carer?

1 A. Yes, we have. I think we were somewhat perplexed  
2 about -- or being unable to source documentation in  
3 relation to Mr Martin's foster care file, and in the  
4 absence of that and knowing -- you know, reading the  
5 witness statements that he provided, it was important  
6 and necessary for us to review all of the children who  
7 had been placed with Mr Martin over a period of time and  
8 we've carried that piece of work out now.

9 I commissioned an independent consultant to carry  
10 that out for us in terms of a document review, someone  
11 with significant experience in child protection and  
12 current practices as well.

13 So we now have a report compiled by the independent  
14 consultant that has reviewed all of the available  
15 documentation to her at that point in time. And very  
16 recently, in the last week or so, we have now located  
17 Mr Martin's foster care file and have begun to examine  
18 that in a bit more detail as well. So really important  
19 for us to look at this whole situation in the round for  
20 the duration of Mr Martin's registration as a foster  
21 carer and consider all of the children who have been in  
22 his care.

23 Q. Okay. I think you -- well, you've provided to the  
24 Inquiry all of the files that you've now been able to  
25 find?

1 A. Yeah.

2 Q. I think some were provided earlier this week, so they've  
3 not yet been examined. There were some foster carer  
4 files I think that you'd found at an earlier stage that  
5 you submitted to the Inquiry --

6 A. Yes.

7 Q. -- but you have found additional material?

8 A. We have.

9 Q. That additional material I think also you're saying came  
10 to light after the independent consultant had prepared  
11 her report?

12 A. Yes, that's correct.

13 Q. Okay. If we can look, please, at the independent  
14 consultant's report, it's at PKC-000000180. We can see  
15 if we scroll down that this was carried out by  
16 a Jacqueline Conway, an independent consultant.

17 If we go on to the second page we see a number of  
18 questions she was asked to address?

19 A. Yes.

20 Q. Are those questions that you formulated?

21 A. Yes, that was to help direct her, her work, and it was  
22 very important I think to include the last question  
23 there, which is around an identification of any themes  
24 or lessons for current practice from reading the  
25 material.

1 Q. So she then refers to her methodology and she prepared  
2 I think chronologies which you've also provided to the  
3 Inquiry --

4 A. Yes.

5 Q. -- for various periods from her reading of the various  
6 files and I think trying to synthesise information that  
7 she obtained from different sources, so for example from  
8 the criminal proceedings?

9 A. Yes, that's correct. I think what it does is put in one  
10 place a very comprehensive chronology across all of the  
11 children that were in Mr Martin's care for the period of  
12 his registration and the circumstances in which they  
13 were being dealt with.

14 Q. She then refers to the context and she talks about at  
15 the time this happened and she says:

16 "In the 1990s the GIRFEC approach within a developed  
17 culture, systems and practice was unknown."

18 She goes on to say:

19 "Sexual abuse of young people was still an area of  
20 challenge and the mystery and the management of sex  
21 offenders and their behaviours was a developing  
22 exercise. Collaborative working had begun to  
23 proliferate with policing specialisms beginning to  
24 emerge."

25 A. Yes.



1 Q. She says:

2 "However offending and bad behaviour ... produced  
3 a predominantly punitive approach from the police."

4 Do you know what she's talking about there?

5 A. I think what she's saying is that there was  
6 an expectation where -- you know, the kind of  
7 complexities and challenging behaviour that was  
8 presented by children in foster care, we may have  
9 children appearing before children's hearings, for  
10 example, on offence grounds. I think what she's saying  
11 is that it was very much about dealing with the offence  
12 rather than looking at the underlying causes.

13 Q. I see. She then moves on to say:

14 "Despite the difference between current policy and  
15 practice context, evidence clearly points to a culture  
16 of support, a willingness to engage, a determination to  
17 seek answers and solutions for the difficulties these  
18 young people were experiencing."

19 So she's focusing there on the children whose files  
20 she looked at?

21 A. Yes.

22 Q. Then she says:

23 "In the case of Mr Martin his care on the surface  
24 appeared exemplary ..."

25 Just pausing there, from your reading of the files

1           and the chronology, would you agree with that?

2   A.   I wouldn't -- are you asking me was his care exemplary  
3           or are you asking me if the statement's accurate?

4   Q.   She says that his care appeared exemplary.

5   A.   I can't answer for Mrs Conway, but I think on reading  
6           the files there's an assumption that his care was good  
7           and he was doing the right thing with the right  
8           motivations for young people and trying really hard with  
9           the most difficult young people.  So on that basis he  
10          was seen to be doing well.

11  Q.   I see.

12  A.   And the reports of the young people were that they  
13          enjoyed being in his care and in fact wanted to be in  
14          his care.

15  Q.   Then it says:

16                "However there was an immediate trust and acceptance  
17                of his information and views that permeated the case  
18                management and was rarely questioned or queried prior to  
19                1997."

20  A.   Yes.

21  Q.   Okay, and we'll come on perhaps to talk a bit more about  
22          that.  She goes on in the report to deal with various  
23          time periods and set out a chronology and there are  
24          certain matters that I wondered if I could cover with  
25          you.

1           If we can move to page 5 and paragraph 2.2, this

2           talks about how Mr Martin became a carer?

3   A.   Yes.

4   Q.   It notes that an assessment had been taken out and then

5           he was asked to take two boys on respite and one of

6           those is an applicant to the Inquiry with the pseudonym

7           'Anthony'.

8   A.   Mm-hmm.

9   Q.   It says there:

10           "Records suggested that Martin wasn't approved as

11           a carer at the time but the assessment and checks had

12           been completed and then the panel meeting responsible

13           for considering his approval was imminent."

14   A.   Yes.

15   Q.   We saw during the evidence of Pol Martin, we looked at

16           the chronology of that and we saw that it was noted that

17           his assessment and checks had been passed. 'Anthony'

18           was placed with him and then in [REDACTED], I think, the

19           panel took place and he was approved.

20   A.   That's correct. That's my understanding.

21   Q.   Is there a problem with that or, given the fact that his

22           assessment and checks had been passed, is that not

23           a problem?

24   A.   There is a problem with that in that the decision around

25           the registration rests with the panel at that point in

1 time. It doesn't rest with the individual workers  
2 concerned. So there's a -- you know, an indication here  
3 that there was a pressing need to place these youngsters  
4 and there was a willingness and an availability of  
5 Mr Martin to receive those children into his care, but  
6 in terms of that registration not being in place, it  
7 does mean that there are issues around the legality of  
8 that placement and the checks and balances and the  
9 protection that that might afford everybody in this  
10 situation.

11 LADY SMITH: The fostering panel could have said no.

12 A. Yes.

13 LADY SMITH: And in the meantime the council had placed  
14 children with this person.

15 A. Yes. My Lady, the fostering panel would be  
16 a multidisciplinary panel including medical expertise,  
17 perhaps psychologist expertise or whatever, so it was  
18 pre-empting the decision of the panel.

19 LADY SMITH: Yes. Taking a risk. Could be a serious risk.

20 A. (Witness nods)

21 LADY SMITH: Which might tell you something about the way  
22 that part of the council was operating at that time.

23 A. (Witness nods)

24 LADY SMITH: Thank you.

25 MS INNES: If we move to the bottom of page 5 and

1 paragraph 4.1, it notes there some concerns and it talks  
2 about how it came about that he applied to be a foster  
3 carer and it talks about him already working with  
4 teenagers and being keen to further that.

5 It then says:

6 "Although recorded as a single male, he suggested  
7 his partner worked in Australia and had done for  
8 approximately two years. Later it would transpire that  
9 his sister was living in Australia and there was no  
10 further reference anywhere to a partner."

11 Then it goes on to say:

12 "There was no assessment in the file or means to  
13 clarify whether information regarding his partner was  
14 checked or provided again."

15 She says:

16 "It is probable that he may have been concerned  
17 about his application as a single male."

18 A. (Witness nods)

19 Q. I don't know whether you've been able to find out any  
20 more information about that original assessment?

21 A. My recollection from the files that I have read are that  
22 that was taken as read. There were no references or  
23 contacts made with the partner that was suggested by  
24 Mr Martin. And that would seem to be a significant  
25 omission.

1 Q. Then it goes on to talk about -- at paragraph 4.3 --  
2 'Anthony' having recently moved to Martin's care, spent  
3 Christmas with him in Ireland, and then there's an issue  
4 that Mr Martin raises about 'Anthony's' behaviour at  
5 Christmas.

6 Then it says:

7 "There was no evidence of checks on the address they  
8 were to stay at. A home visit followed the trip from  
9 'Anthony's' social worker. In 1997 it would transpire  
10 during the second assessment that no police checks on  
11 the Ireland and USA addresses were then undertaken by  
12 the then assessing social worker ..."

13 In terms of the Ireland address, I think that seemed  
14 to be where Mr Martin was going back to for the  
15 holidays, where his family came from?

16 A. Yes, I think that's the family home, his family home.  
17 And from my reading of the file, I would say that that  
18 was correct in relation to that address.

19 I have seen on record -- that's a file that hasn't  
20 been available to the Inquiry -- communication and  
21 correspondence between the social work services at the  
22 time and the organisation in America that Mr Martin was  
23 working for.

24 Q. Okay, so --

25 LADY SMITH: Jacquie, if I can just take you back to the

1 matter of Mr Martin's partner or what he said about  
2 having a partner who was working in Australia at the  
3 time of his assessment, would I be right in thinking  
4 that actually enquiries about that partner should have  
5 been made because you'd have to allow for the fact that  
6 that partner could return and become part of the  
7 household at any time?

8 A. Yes, my Lady, and from the files that I've read there  
9 was an indication in the assessment process that  
10 Mr Martin intended to marry that partner and that there  
11 would be a joint commitment to fostering in the future,  
12 so that made it even more important to have  
13 an engagement with that individual concerned.

14 LADY SMITH: But everything proceeded on the basis of his  
15 hearsay?

16 A. Mm-hmm.

17 LADY SMITH: With no other enquiries about that person being  
18 made?

19 A. It seems so.

20 LADY SMITH: Thank you.

21 MS INNES: You mentioned the USA address and I think we  
22 know, certainly, that the applicant 'Anthony' went to  
23 the United States with Mr Martin on at least one  
24 occasion and he seemed to be working in a camp, I think,  
25 perhaps for children who were blind?

1 A. Yes, I think there may be two organisations involved.  
2 One was like a Camp America, which is out-of-school  
3 arrangements for young people, and the other -- you  
4 know, for more general provision and the other  
5 specifically focused on children with visual impairment  
6 at that time.

7 And my understanding is that the young people that  
8 accompanied Mr Martin were also given a role -- a caring  
9 role and a support role within the organisations that  
10 they were moving to -- travelling to take part in.

11 Q. At the top of page 6 at paragraph 4.5 it refers to  
12 Mr Martin reporting that a pickpocket had stolen £300  
13 from him after withdrawing this from his bank. He  
14 claimed financial assistance.

15 A. Mm-hmm.

16 Q. That's commented on I think again in the report, some  
17 financial issues?

18 A. Yes.

19 Q. What impression do you have of that, that the department  
20 seemed to be helping him out in relation to these  
21 matters?

22 A. Yes, I think there are a number of occasions where that  
23 occurred. This occasion just prior to travelling to  
24 Ireland. Other occasions where young people in his care  
25 may have destroyed possessions or -- he did seem to be



1 the victim or claim to be the victim of a number of  
2 thefts from his wallet or his finances throughout the  
3 years.

4 Q. Okay. We know from Mr Martin's own evidence that he --  
5 well, he told us that he was taking illegal substances  
6 during the time that he was a foster carer. He said  
7 that in the context of him saying that he was struggling  
8 to cope and that was one of the things that he did. Was  
9 there any sign of that on the file? Is that something  
10 that you were aware of?

11 A. I haven't seen any references to that other than  
12 an acknowledgement that some of the young people who may  
13 have been in his care at that time were using cannabis  
14 and he was very clearly indicating that that's not  
15 something that would happen within his household.

16 Q. Okay. If we scroll down this page to paragraph 5.5, it  
17 mentions there that two boys were frequent visitors to  
18 the Martin household and regularly stayed there. And it  
19 says that he outlined in the report to the psychologist  
20 in 2012 that he was often caring for these boys to  
21 assist their mother and they went on holiday with him to  
22 the United States and to Ireland. And it notes that  
23 these boys were not open cases to social work. I think  
24 you're aware that these two boys were complainers in the  
25 criminal --

1 A. Yes.

2 Q. -- case and he pled guilty to abusing them?

3 A. Mm-hmm.

4 Q. We also know that that abuse commenced before he became  
5 a foster carer.

6 A. (Witness nods)

7 Q. In terms of the assessment process, were either of these  
8 boys involved in the original assessment?

9 A. The boys were not. As far as I can see they weren't  
10 spoken to or involved in the assessment process, which  
11 would be unusual in terms of current practice.

12 I do know that from reading the foster care file and  
13 the initial assessments that their mother was one of  
14 Mr Martin's referees and so therefore she gave  
15 written -- gave a written reference and that she was  
16 visited by a social worker carrying out the assessment.

17 Q. Okay. If the boys were in the house a lot after  
18 assessment, are you aware if the social workers became  
19 aware of them being around the house?

20 A. I think there are lots of references to not only the  
21 children who were placed on foster care being in and  
22 around the household, there are references to other  
23 visitors, which may include the two boys as mentioned  
24 here, and siblings of the young people who were in  
25 foster care, and perhaps others. So it was to all

1           intents and purposes a very busy household with lots of  
2           visitors and that was recognised throughout.

3    Q.   I think sometimes there were notes in the records about  
4           the social worker not really being able to speak to  
5           Mr Martin because there were so many people coming and  
6           going in the house.

7    A.   Yes.

8    Q.   If we can move on to page 7, there's a heading,  
9           "Allegations of abuse", and it talks about the  
10          indictment in the first part of that.

11                 At paragraph 6.5 it talks about the first allegation  
12           of assault, physical assault, made by a boy who was in  
13           care with him. He outlined that Pol Martin had slapped  
14           him twice and kicked him, and she notes there that  
15           police were contacted.

16                 "... he normalised the incident describing having to  
17           implement a restraint and claimed the kick was playful."

18   A.   Yes.

19   Q.   "No police reports or information suggested that action  
20           was taken by the police at the outset, or that the  
21           matter was dealt with at child protection."

22   A.   Mm-hmm.

23   Q.   Obviously there was a reference to the police, but it  
24           says there that it wasn't dealt with as a child  
25           protection matter.

1 A. Yes.

2 Q. And is that an issue?

3 A. It is an issue in that the explanation provided by  
4 Mr Martin seemed to have been accepted.

5 In relation to the young person that this concerns,  
6 he had a very difficult and tragic history of abuse  
7 within his own household and his own birth family and  
8 I can see here that there -- you know, the comparison  
9 between the child protection investigation taking place  
10 as it relates to other individuals to this example here.  
11 It was not followed through, whereas in other situations  
12 for this particular young person -- because I've read  
13 his file as well -- that there were child protection  
14 investigations in relation to, for example, his  
15 stepparent, who was alleged to have abused him. So  
16 there seems to be an inconsistency here.

17 Q. Okay. Then if we move on over the page to page 8 and  
18 there's a section there headed, "Overview of emerging  
19 themes". At 8.1 it says:

20 "Mainstay placements were difficult to find and  
21 demand for effective placements was high, particularly  
22 for those individuals who presented challenging and  
23 aggressive behaviour and offending. Martin was felt to  
24 be providing care that impacted positively on these  
25 behaviours for 'Anthony' and [the other boy that we've

1 just spoken about] who were in his care at that time.  
2 The impact of this level of need for mainstay appeared  
3 to compromise due diligence for approval, scrutiny and  
4 application of policy and procedure."

5 A. Yes.

6 Q. So that seems to be one of the issues --

7 A. Yes.

8 Q. -- that she highlights. Is that an ongoing problem,  
9 that if there are limited placements then there's  
10 a desire to try and --

11 A. Yes.

12 Q. -- keep the children where they are --

13 A. Yes.

14 Q. -- even if there are issues arising?

15 A. Yes. I think in this particular case you've mentioned  
16 earlier about the placement of the children before  
17 approval, but the original approval was for the  
18 placement of a single male child between the ages of 11  
19 to 16, but we see very early on the introduction of more  
20 than one young person into Mr Martin's care. So that --  
21 that -- the demand, if you like, for care exceeding the  
22 supply of mainstay carers at that time seems to have  
23 been an issue for the social work services.

24 And that is around today, in that there are  
25 occasions where foster carers may, by exception, be

1 asked to take children over and above their approval or  
2 conditions that they -- approval conditions, if you  
3 like, of their registration, and that may apply in  
4 situations where we're looking to place siblings  
5 together or just simply through the need to protect  
6 children in an emergency situation.

7 Q. You mentioned about his approval being for 11 to  
8 16-year-olds and I probably should have asked this when  
9 I was talking about the original assessment, but we know  
10 that Mr Martin was a young man himself at the time,  
11 I think he was in his 20s.

12 A. (Witness nods)

13 Q. First of all, is there any particular issue about the  
14 age that he was at the time and the children that he was  
15 approved to take?

16 A. At that time I'm not sure what the regulations were, but  
17 currently the regulations are that a foster -- you know,  
18 someone can be a registered foster carer and apply to be  
19 a foster carer from the age of 21 up. So in terms of  
20 the age, I don't think there's an issue.

21 But in terms of the assessment and that person's  
22 ability to manage young people who are close in age to  
23 them, I think the interrogation of that, their  
24 motivations and their ability to manage some of the  
25 boundaries and be a carer for those young people rather

1 than a friend or a mate or get involved in partying or  
2 whatever that might be would be something that would be  
3 considered very carefully and a matter of scrutiny in  
4 the assessment process.

5 Q. I think Mr Martin gave evidence that he didn't really  
6 consider himself to be a parent or he wasn't able to  
7 have that parental authority, that he was more of  
8 a friend or that sort of relationship.

9 A. Yes.

10 Q. That would be something that ought to be interrogated at  
11 the stage of assessment?

12 A. (Witness nods)

13 Q. I suppose in terms of -- if you're going to register  
14 somebody, the relative age of the child that they're  
15 going to take?

16 A. Yes.

17 Q. If we can move on, yes, to -- there are various issues  
18 here that are highlighted and if we can look down to 8.7  
19 on page 8, it talks about Martin:

20 "... controlling visits to the house by parents and  
21 key workers of the charges in his care. There were  
22 clear gaps in communication between services for the  
23 carer and the children that created the conditions for  
24 a lack of coordinated scrutiny of information or  
25 incidents."

1           Again, that seems to be an issue that was picked up  
2           on?

3   A.   Yes.

4   Q.   I think in relation to 'Anthony' there's reference in  
5           this report that Mr Martin didn't like his social  
6           worker, he thought she was interfering and wanted her to  
7           come less?

8   A.   That's certainly -- yeah, that's something that I would  
9           understand from reading the information I have  
10          available, that in some instances he was encouraging  
11          parents to be in and around his household over and above  
12          what might be considered to be appropriate or in  
13          agreement with the social worker concerned, and in other  
14          instances, such as this, he was keen to exclude people  
15          from being in his household or having access to the  
16          young person.

17   Q.   And also the issue of communication between services for  
18          the carer and the children is highlighted here.

19   A.   Yes, that -- yes. There was a complexity in relation to  
20          this case because Mr Martin was also employed as  
21          a sessional worker.

22   Q.   Yes.

23   A.   So as a sessional worker he was working in a direct  
24          one-to-one capacity with challenging young people and  
25          some of that was also overnight involvement or evening



1 work and that was beginning to cause an issue for his  
2 ability to attend to his foster care duties as fully as  
3 he might. So there was a tension between his role as  
4 a sessional worker and his role as a foster carer.

5 Also that I think what this relates to is the  
6 information that was available to his support worker,  
7 because he had a support worker, as a foster carer and  
8 the information as held with the social workers who were  
9 responsible for the children in his care.

10 LADY SMITH: Jacquie, can you tell me a bit more about  
11 what's involved in being a sessional worker?

12 A. Yes, I think it was very much about addressing the needs  
13 of young people who perhaps were disengaged from school,  
14 not attending school, getting involved in offending,  
15 not -- you know, without meaningful social outlets, so  
16 it was very much about getting involved almost like  
17 a kind of youth work role, but targeting young people  
18 for whom the social work service had concerns. That's  
19 my understanding of the role.

20 LADY SMITH: That's a very high-level description. It  
21 doesn't tell me what actually Pol Martin would have been  
22 doing.

23 A. He would do ... I don't -- I can only give you some  
24 insights into that from what I've read in order to  
25 answer your question accurately, so that may be about

1 attending leisure facilities, sports facilities,  
2 engaging young people in some of those activities, youth  
3 work activities and he had a skill in that area, because  
4 of his expertise of working in outdoor education centres  
5 so some of that may have been hill walking, things to  
6 keep young people interested, engaged and busy.

7 LADY SMITH: So he'd be booked for perhaps an hour's session  
8 or it could be half a day and particular young people  
9 would be allocated to him?

10 A. Yes.

11 LADY SMITH: You also mentioned they might have to stay  
12 overnight?

13 A. I think -- I'm not certain about overnights, but  
14 certainly evening work and what I would call nighttime  
15 work, yeah.

16 LADY SMITH: Thank you.

17 MS INNES: Was he employed by the Local Authority to do  
18 that?

19 A. Yes.

20 Q. Okay. I think 'Anthony' had the impression that  
21 Mr Martin was very friendly I think with some of the  
22 social workers. Did you have that impression from the  
23 files or not?

24 A. That's not the impression that I would take from the  
25 files, because it's difficult to gauge friendliness from

1 a written document. My impression would be that his  
2 explanations would be taken at face value. That there  
3 was perhaps a reluctance to probe into some of his  
4 explanations for certain events, which on the face of it  
5 were quite concerning. So whether that amounts to  
6 friendliness or collusion or taking his accounts at face  
7 value I'm not sure, but there was certainly -- and that  
8 was actually more than one person. It wasn't a single  
9 member of staff. His view of situations was certainly  
10 clearly expressed and accepted in many situations.

11 Q. In the next section of the report the writer looks at  
12 the period 1995 to 1997. If we can move on to page 10,  
13 please, at paragraph 9.2 it highlights there the issue  
14 about number of placements that you've already  
15 mentioned.

16 "On 12 January 1995 he was approved to take two  
17 placements at his fostering panel, despite having had  
18 two placements since [REDACTED] 1994.

19 This approval was given against a backdrop of  
20 stress, inability to cope, violent incidents and  
21 financial hardship. The support of the team around him  
22 and the reduction of sessional work must have  
23 contributed to the decision taken at the panel, however  
24 in the absence of minutes or reports, this is  
25 an assumption ..."

1           Just before I asked that, I noticed when I was  
2           reading that that at paragraph 9.1 it refers to him  
3           doing sessional work that now included overnight stays.

4   A.   Yes.

5   Q.   So that seemed to have been ongoing. This is obviously  
6           based on the documents that the writer had at the time.  
7           From the files that you've obtained more recently, are  
8           you able to shed any more light on why it was that he  
9           was approved when there were issues going on in the  
10          background?

11  A.   Yeah, I -- to be able to answer that in detail I would  
12          like -- you know, I would need to go back and read those  
13          documents again. However, it does seem that the full  
14          picture of what was happening within his household was  
15          not being presented in the fashion you might expect to  
16          the fostering panel.

17  Q.   Okay.

18  A.   Or if it was being presented, it was being presented  
19          with a rationale.

20  Q.   Okay. She says there that part of the rationale might  
21          be the support of the team around him, he's going to  
22          reduce his sessional work, that will reduce the stress  
23          and this will help him.

24  A.   Yes.

25  Q.   I see.

1           If we can move on to the next page, which is --  
2           sorry, just bear with me a moment. (Pause)

3           If we move, yes, to the top of the next page,  
4           page 11, at 10.4, so by April 1995 it says:

5           "... Mainstay social workers were seeking to have  
6           his role as a carer reviewed."

7           The next entry is:

8           "On 26 May, Geoff Pearce responded to a letter from  
9           Betty Bridgeford ..."

10           Who I think had a senior role in the social work  
11           department at the time?

12          A. Yes, she did.

13          Q. "... who had received a complaint from an MP. Pearce  
14           suggested in his written response that there were  
15           opposing views about the placement [of the young person  
16           who had made the allegation of assault that we've  
17           already talked about] with Martin. One was that the  
18           placement was serving the boy well, whereas the other  
19           raised concerns about the child protection registration  
20           as a result of the assault by Martin."

21          A. Yes.

22          Q. "Pearce claimed that this incident had raised awareness  
23           for workers and the placement was to continue with  
24           support."

25           Then at paragraph 10.6 she says:

1           "Bill Frew [who is another person within the  
2           department] directed that his mainstay role was to be  
3           reviewed with no further placements until he was  
4           assessed. Frew believed that an assault on the boy did  
5           occur."

6   A. Yes.

7   Q. Are you able to tell us a bit about that period and this  
8           issue about re-assessment?

9   A. I understand the circumstances that was leading to this  
10           was this incongruous situation where you had a young  
11           person placed with a foster carer and he had -- he was  
12           registered on what would be the child protection  
13           register at that time under the category of emotional  
14           abuse as a result of his experiences at home. And when  
15           the case conference considered all of the information  
16           relating to this matter, they extended the registration  
17           to include the category of physical abuse, because they  
18           felt that he was at risk of physical abuse within his  
19           foster care setting. So that was quite a difficult set  
20           of circumstances to manage.

21           And all of this communication relates to that.

22   Q. Right, okay.

23   A. So it's an urgent review of his circumstances because of  
24           that -- that decision by the case conference.

25   Q. Okay. It seems to be that Mr Martin was unhappy about

1           this to the extent that he wrote to his MP about it?

2   A.   Yes.

3   Q.   It's referred to again at paragraph 11.1, and it notes

4           that this was a re-assessment following an assault

5           against the boy in Nairn, I think they'd been away at

6           a caravan.

7   A.   Mm-hmm.

8   Q.   "This was a clear challenge for social work on the basis

9           that the placement offered by Martin was very good for

10          boys facing challenges in their care and yet the boy had

11          been assaulted."

12                So I think at this point there was an admitted

13          assault on this boy?

14   A.   Yes.

15   Q.   So there was the earlier allegation that we saw in the

16          earlier period.

17   A.   Mm-hmm.

18   Q.   And then when we move into this period there was

19          an assault which Mr Martin admitted?

20   A.   My understanding in this case -- in this particular

21          incident, he actually contacted the social work service

22          to self-refer himself after the incident. I think

23          that's what this one relates to, from my recollection.

24   LADY SMITH: Social work services did not report it on to

25          the police; is that right? At that time?

1 (Pause)

2 MS INNES: I think there was an attempt to report it,  
3 my Lady. If we move on to page 14. In this section  
4 it's talking about various matters --

5 LADY SMITH: Which paragraph?

6 MS INNES: Paragraph 14.17, there was a call by Mr Martin to  
7 Geoff Pearce to advise that the boy had run off because  
8 he was upset at rejection by his mother.

9 A. Yes.

10 LADY SMITH: Yes.

11 MS INNES: There was an agreement that the matter needed to  
12 be referred to the police. The boy didn't want the  
13 police involved. Geoff Pearce interviewed Martin, who  
14 admitted that he had slapped the boy and then drove the  
15 boy to the police station in Nairn but the boy refused  
16 to make a complaint or go inside.

17 A. Mm.

18 MS INNES: "Martin said they started to drive home but made  
19 up on the way and returned to Nairn to complete their  
20 holiday."

21 That seems to be Mr Martin taking the boy to the  
22 police station, not the social worker, because they were  
23 away at that point?

24 A. Yes.

25 LADY SMITH: And the social workers had heard the



1 admission --

2 MS INNES: Yes.

3 LADY SMITH: -- from Martin, but didn't report it?

4 A. That's an interesting observation. Thank you.

5 I do know from reading this report that the young  
6 person himself found this a difficult matter and did not  
7 wish to make a complaint to the police, so it would have  
8 been very difficult for him to go on to make further  
9 disclosure or to discuss that in any detail, so that  
10 would have been a stumbling block there.

11 LADY SMITH: Well, it all depends how the police get on.  
12 It's not for social work to second guess.

13 A. Yes.

14 LADY SMITH: Whether the police consider, on the evidence  
15 they have, that they ought to take it further. Or even  
16 just record it in the information that the chief  
17 constables keep.

18 A. Yes.

19 LADY SMITH: Which is really important, as you'll know, for  
20 example in enhanced disclosure purposes.

21 A. Absolutely. But again I think what's missing here is  
22 that rigour and consistency of approach.

23 LADY SMITH: Yes. It's very fair of you to say that. Thank  
24 you, Jacquie.

25 MS INNES: I think it goes on from there to talk about

1 various things that happened. Again it's mentioning  
2 that Bill Frew said that the care was to be reviewed.  
3 At paragraph 14.22 it says:

4 "It was agreed that the boy should continue to  
5 reside with Martin but Bill Frew would be visiting  
6 Martin to make it perfectly clear about the expectations  
7 of the department. No further placements until  
8 re-assessment."

9 Then there's reference to awaiting the police  
10 decision, which occurred in the Grampian policing area.

11 14.23, there's reference to a visit with Martin.

12 Then at 14.24 there's reference to a child  
13 protection case conference, where it says:

14 "Martin and the boy did not challenge the version of  
15 events provided. Martin stated that the boy's behaviour  
16 had been perfect. The social worker felt the  
17 relationship and placement had been positive for the  
18 boy. Martin apologised for hitting the boy and reported  
19 to be taking stress management and hypnotherapy classes.  
20 The decisions taken included a referral to Dr Field to  
21 look at strategies for managing conflict, and the social  
22 worker was to be more involved."

23 Was it perhaps at that stage that this  
24 registration --

25 A. Yes.

1 Q. So at the child protection case conference, the boy  
2 would then be registered as being at risk of physical  
3 abuse?

4 A. Yes.

5 Q. But the outcome of the case conference was that,  
6 nonetheless, he was to stay with Mr Martin?

7 A. Yes.

8 MS INNES: I see.

9 Right, my Lady, it's just after 11.30.

10 LADY SMITH: Yes, would that be a good place to break?

11 If that would work for you, Jacquie, we'll take the  
12 morning break just now and I'll sit again in about  
13 15 minutes.

14 Thank you very much.

15 (11.33 am)

16 (A short break)

17 (11.51 am)

18 LADY SMITH: Are you ready for us to carry on, Jacquie?

19 A. Yes, thanks very much, my Lady.

20 LADY SMITH: Thank you.

21 Ms Innes.

22 MS INNES: Thank you, my Lady.

23 If we can go back to PKC-000000180 and to page 15  
24 and the section numbered 16 on the page, "Overview", it  
25 talks first of all at paragraph 16.1 about Martin being

1 "... willing to challenge social work and assert his  
2 position ... he shows an angry side, not previously  
3 shown".

4 Then it says:

5 "He has missed his child protection training to  
6 support [the boy we've been talking about] so will have  
7 an excuse for taking this stance that isn't challenged."

8 I'm not sure I fully understand that.

9 A. Obviously Mrs Conway's written this report, but my take  
10 on that would be that there were a number of occasions  
11 where Mr Martin did not attend particular support groups  
12 or training and this was another instance of that. So  
13 if he was challenged on that, in terms of his uptake of  
14 training, he had a reasonable excuse for that.

15 Q. That was because he was busy doing other work for the  
16 Local Authority?

17 A. Yes.

18 Q. Yes. Then at 16.2 she says:

19 "Apart from what is stated as a complaint against  
20 Martin by the boy, language such as saying 'he loved  
21 him' and 'they made up' and the boy 'begging to be  
22 allowed to return' to Martin do seem to ring  
23 an unhealthy alarm bell about this relationship, which  
24 did not appear to inform decisions but instead seemed to  
25 reinforce it as productive. This grooming was being

1 carried out under the noses of the workers in this  
2 situation and they have not been able to recognise that  
3 or scrutinise it."

4 In terms of that particular issue, you know, when  
5 sort of red flags or alarm bells should be raised, how  
6 do you make sure that staff can see these warning signs  
7 and act on them appropriately?

8 A. I think in terms of this particular paragraph and the  
9 issues that it raises is around the understanding of  
10 sexual abuse, sexual exploitation and the grooming  
11 process. And back in the 1990s I would suggest that  
12 that was something that had not come to the fore in  
13 social work practice at that time. It would be  
14 something that would be quite new to the staff involved.

15 And currently that's something that would be very  
16 much to the front of people's thinking in understanding  
17 young people's behaviour, particularly in these kind of  
18 situations because where you have -- what you have here  
19 is a situation where there were young boys experiencing  
20 physical assaults, for example, but asking to return to  
21 that household because that was where they felt cared  
22 for, and using -- I think what it says here is when he  
23 was asking the young boy to return, he said, "Because  
24 I love you, please come back", you know, those were the  
25 words that were being used, and that concern that the

1 relationship was more than the caring relationship of  
2 foster carer to child in care. It was much more than  
3 that. I think that's what it's alluding to.

4 So today significant training has been undertaken  
5 around sexual abuse, sexual exploitation and the nature  
6 of the grooming of young people, so I would expect all  
7 our social work staff in children and families to have  
8 a high level of awareness of these kind of -- of this  
9 kind of practice.

10 Q. Looking back to that time, this is in around 1995, and  
11 the convictions that we looked at of other foster carers  
12 were in 1993 and 1994.

13 A. Yes.

14 Q. So the Local Authority obviously had very recent  
15 experience of foster carers having been convicted for  
16 sexual offences. So I'm just wondering how that fits  
17 with a potential lack of awareness or challenge on the  
18 part of the social workers?

19 A. Yes, I can't answer that because I don't have knowledge  
20 of the training and the development opportunities that  
21 were available at that point in time.

22 Q. I suppose it might highlight the importance of feeding  
23 learning from circumstances --

24 A. Yes.

25 Q. -- which have given rise to convictions --

1 A. Yes.

2 Q. -- and making sure that that's passed on to staff?

3 A. Yeah. I think on that point, if we think about the two  
4 cases that you raised earlier and this particular case,  
5 not being able to discover in our interrogation of  
6 records that there has been an internal or independent,  
7 external scrutiny of these circumstances is a concern  
8 and one of the reasons why we wanted to do this in this  
9 particular case, because there are still lessons to be  
10 learnt from this for the present day.

11 LADY SMITH: They cannot in the 1990s have been ignorant of  
12 the risk of children being sexually abused in foster  
13 care, can they?

14 A. I mean I do recall, my Lady -- because I'm old enough to  
15 have been working around this particular time -- that  
16 the concept of sexual abuse or sexual abuse of babies  
17 was actually, you know, very new in the mid 1980s, so --  
18 and that sense of thinking the unthinkable, because the  
19 initial reaction is to deny that this is happening in  
20 front of your very eyes, but that need to interrogate,  
21 to be curious and to be professionally alert to those  
22 risk factors, I think some of the risk factors were  
23 probably not always recognised and not necessarily  
24 evidence based and researched at that point in time.

25 LADY SMITH: Do you think there was something about this

1 particular young man that of itself from the way he was,  
2 the sort of person he was, pulled the wool over their  
3 eyes?

4 A. Yes, I do.

5 LADY SMITH: Must have been, mustn't there?

6 A. I think when you read this report and you see the number  
7 of staff who were involved with him in different  
8 capacities, his ability to do that was certainly quite  
9 noticeable.

10 LADY SMITH: Yes.

11 Ms Innes.

12 MS INNES: Thank you, my Lady.

13 If we move a little bit further on in the report to  
14 page 17 and this is moving forward in time and  
15 paragraph 18.2 -- well, first of all, 18.1:

16 "In May 1996 Martin told mainstay social workers  
17 that he was resigning and planning to work with  
18 Barnardo's."

19 That seemed to be something that was noted in the  
20 file.

21 Then at 18.2 it says:

22 "In October 1996 Martin was anxious that his review,  
23 requested as a result of the assault on the boy [that  
24 we've talked about] had still not been completed. Work  
25 did appear to be ongoing from the files."



1           But I think in the meantime he'd had another boy  
2           placed with him; is that right?

3   A.   Mm-hmm.

4   Q.   Again, you might have recovered more information in  
5           relation to what was going on at this time?

6   A.   Yeah.  What I've been able to glean from the foster  
7           carer files that in and around this time the Local  
8           Authority had agreed to make use of the BAAF, the  
9           British Association of Adoption and Fostering, Form F,  
10          and the agreed policy and procedure was that all  
11          registered mainstay carers would undergo a re-assessment  
12          using that as a new tool.

13          So that was what was underway I think in this period  
14          here and a new social worker had been allocated to carry  
15          that out in conjunction with a second worker.

16   Q.   Okay.

17   A.   So that was under way.  And I think the displeasure  
18          that's being expressed here was that this was taking  
19          a long time and obviously had implications for the  
20          ultimate registration as a foster carer.

21   Q.   Okay.  Again if we move on in this period to page 20 and  
22          paragraph 23.2, and this covers something that you've  
23          alluded to to some extent already, about the boys coming  
24          to the house.  It says:

25          "Martin appear to have had quite a hold on the boys

1 in his care, many return to his home even after the  
2 placements are over and those whom Martin determines  
3 must leave beg to be returned to him. Given a comment  
4 that [another boy, so a boy that we've not talked about  
5 yet] was having contact with a previous carer was  
6 described as inappropriate, it is strange that the  
7 number of boys and the emotional links to Martin weren't  
8 probed further, forensically considered or scrutinised."

9 So --

10 A. I think that's a fair assessment in the period 1993 to  
11 1995, but during 1996 and the work that was underway to  
12 complete the Form F and a re-assessment using that as  
13 a tool, I can see from the records in the foster carer's  
14 file that there was a great deal of exploration of many  
15 of these issues, and that plus a number of other  
16 concerns around his health and his honesty around that  
17 ultimately led to his resignation.

18 Q. Okay. We'll come on to that a bit more in a moment. If  
19 we move on to page 21 --

20 LADY SMITH: Just before we go to page 21, do you think that  
21 if he had not resigned he'd have been de-registered in  
22 any event?

23 A. That's a difficult thing to say. I think if he was  
24 appearing before the panel now the answer would be yes.

25 LADY SMITH: Hard to say what would have happened.

1 A. It would be hard to say at that -- in terms of what the  
2 decision might have been back in 1996/1997.

3 LADY SMITH: To which one is tempted to say: how bad did it  
4 have to get? And I'm guessing you'll say: it's hard to  
5 tell.

6 A. Yes. Yeah.

7 LADY SMITH: Thank you.

8 A. However, if I may say something else?

9 LADY SMITH: Yes.

10 A. I think reading the records and the new social worker  
11 who was allocated to this, who came in with fresh eyes  
12 and a determination to dig deeper into these issues, is  
13 to be commended in terms of the work that she did there.

14 LADY SMITH: Yes. Thank you.

15 MS INNES: If we move on to page 21 and paragraph 24.3,  
16 there were allegations made by another boy who was  
17 placed with Mr Martin and I think these perhaps came  
18 through the boy's mother and she contacted the Daily  
19 Record, I think, and I think perhaps we know from the  
20 records that they tried to contact Mr Martin. They were  
21 claiming there were allegations of sexual abuse at that  
22 time.

23 At paragraph 24.4 she records:

24 "Martin was discussing the sexual abuse allegations  
25 with his social worker and wanted to know how to be

1 a better carer. The social worker records Martin might  
2 need additional intensive support to work through his  
3 feelings of anger and rebuild his self-confidence  
4 following these allegations."

5 We've seen reference to that during the course of  
6 Mr Martin's evidence, that that record was looked at.

7 A. Mm-hmm.

8 Q. Again do you have any additional information in relation  
9 to that to shed some more light on what was going on at  
10 this time?

11 A. I think this relates to his opening questioning about  
12 where he was going wrong and a sense that he was  
13 expressing an inability to understand why these issues  
14 were arising and needing support to establish better  
15 boundaries. And that's what he was expressing. And  
16 certainly there were indications where he was under  
17 a great deal of stress personally, and these -- you  
18 know, if you think of the catalogue of incidents were  
19 increasing and the pressure that he was under was  
20 increasing.

21 Q. If we move on to page 25, still staying with what  
22 happened around this time, at paragraph 29.8, after the  
23 allegations of sexual abuse had been made, the police  
24 were involved. If we look at 29.7, they interviewed the  
25 two boys who we know had been staying with Mr Martin

1 prior to him becoming a foster carer.

2 At 29.8:

3 "The police contacted the social worker suggesting  
4 that they wouldn't be interviewing Martin. She told him  
5 about this and he expressed his anger that his friends  
6 [the boys] were questioned by the police. The police  
7 informed Martin that the allegations made by [the boy  
8 who had been in foster care] were of a sexual nature."

9 Then there was a further decision that another child  
10 would be returned to Martin's care and there would be no  
11 further child protection proceedings. However, it says  
12 that there was still some concern around Martin and  
13 Steve Mackay alleged that he hadn't given the  
14 instruction to return the child. So the child had been  
15 returned but then he was removed again.

16 Then it says at 29.10:

17 "It was alleged during the JII that the brothers  
18 reported that Martin had testicular cancer and it was  
19 stated by one of the boys that he slept in Martin's bed  
20 with him any time he stayed over and there was no other  
21 bed available."

22 A. Yes.

23 Q. Again these things would obviously be raising alarm  
24 bells. Do you know what happened as a result of these  
25 statements?

1 A. I can't answer that question in terms of the actions  
2 that were taken at that point in time without further  
3 opportunity to read the records. However, I do know  
4 that the issues around sleeping arrangements and some  
5 issues around nakedness and clothing were all matters  
6 that were raised within the Form F assessment and in  
7 discussion with Mr Martin.

8 Q. Okay. If we go over the page to page 26 and  
9 paragraph 31.3, she notes there:

10 "Concerning responses to sexual contact were  
11 evident."

12 There's something -- an issue in relation to other  
13 boys. And then it says:

14 "There was almost no reaction to the boy stating  
15 that he frequently shared a bed with Martin."

16 But I don't know if -- from the additional files  
17 that you've found, is that something that was then  
18 looked at in the context of that re-assessment?

19 A. I think -- I think it's fair to say that up until this  
20 point the significance of having two other youngsters  
21 staying over frequently in the household were overlooked  
22 and that they were not a matter for enquiry and that we  
23 see that it wasn't until the police investigation -- as  
24 you referred to earlier -- where those young boys were  
25 actually interviewed about their experiences within the

1 household.

2 So up until that point it was understood, it was  
3 known, but the significance I think had not been really  
4 considered in detail.

5 Q. Then it says at paragraph 31.4:

6 "There were facts given regarding Martin having  
7 cancer but little evidence that this was being checked.  
8 Martin began to introduce that he was undergoing medical  
9 investigations."

10 I think the writer suggests that he was creating  
11 a story around what the brothers had disclosed in their  
12 interview.

13 A. Yes.

14 Q. I think she's saying it was a story, because she then --  
15 did she have information about the medical information  
16 given to the panel in the re-assessment?

17 A. I can provide you with some more information on that if  
18 that's helpful?

19 Q. Yes.

20 A. What that relates to is the information that had been  
21 given in the police interview of these two young boys  
22 who were not in foster care, and if you think about the  
23 questioning that might have been around sleeping in  
24 someone's bed or sexual contact or physical contact of  
25 a sexual nature, these boys have -- or one of them has

1 indicated that Mr Martin is indicating or has indicated  
2 to them that he has testicular cancer or has had cancer,  
3 so there's obviously some discussion around genitalia  
4 and those matters.

5 That became a question for the social workers to  
6 actually establish whether that was true or not, and  
7 there was also references in the records to Mr Martin  
8 having indicated that he'd had cancer of the stomach  
9 lining before he came to Scotland from Ireland. And  
10 that was all considered and discussed with him and  
11 became another area of contention between the social  
12 work services and Mr Martin, and reported to the -- in  
13 the Form F and would be -- have formed part of the  
14 report going to the fostering and permanence panel.

15 The medical adviser to the panel confirmed  
16 categorically that Mr Martin had not undergone any  
17 investigations or treatment for cancer of -- in any  
18 sort, and there's written evidence of that.

19 And there's also the report to the panel is that in  
20 the medical adviser's view, she could not support his  
21 re-registration until he underwent a full health  
22 assessment from his general practitioner.

23 So there's an indication here that some of this may  
24 be fabricated and not corroborated by medical evidence,  
25 and that was initiated from the investigation that was



1 carried out by the police, so the evidence given by the  
2 two young people.

3 Q. Did Mr Martin agree to undergo that additional medical  
4 or not?

5 A. No. He resigned beforehand. It was a matter of great  
6 frustration for him.

7 Q. If we can look on, please, to page 29, paragraph 35.6.  
8 The writer refers to a paper which was published by  
9 Mr Martin about foster care and she says:

10 "This paper was peppered with inaccuracies in  
11 respect of his foster caring experience and what we now  
12 know of his home life."

13 Then he talks about his journey into foster care and  
14 that he claimed he was a qualified social worker as  
15 well.

16 I think you've seen that article?

17 A. I haven't read the article --

18 Q. Okay.

19 A. -- but I have investigated to see whether it's still  
20 retrievable from certain academic sources and  
21 I understand that Mrs Conway did.

22 Q. Okay. I think if we go on to page 30 and  
23 paragraph 39.2, she says there:

24 "The inconsistencies were beginning to be more  
25 frequent and suggest that Martin was losing focus as

1 errors were highlighted. The most worrying of these was  
2 the litany of fabrication within his published paper."

3 She seems to have --

4 A. Formed a view --

5 Q. -- formed a view about that.

6 Then at 39.3 she says:

7 "The assessment process was underway and there was  
8 a level of resistance from Martin to undergo a medical.  
9 There was an inevitability to his resignation that  
10 stemmed from a greater level of scrutiny that was  
11 beginning to emerge as normal."

12 A. Yes.

13 Q. I think she's maybe saying he was beginning to realise  
14 that there would be more scrutiny than there had been  
15 before?

16 A. Yes.

17 Q. Okay. I just want to make sure that we've covered all  
18 of the points that you've drawn out from this review and  
19 if we can look, please, at PKC-000000189, which is  
20 a summary of some points, I think, that you have drawn  
21 out following the discovery of the additional files.

22 If we look down to the bullet points, so there's  
23 additional information and I suppose the first issues  
24 are positives.

25 A. Yes.

1 Q. So in general there was more going on in terms of  
2 re-assessment than might have appeared from the files  
3 that we had previously?  
4 A. Yes.  
5 Q. Then you say that there were a number of themes that  
6 cement your previous concerns, and so first of all:  
7 "Material which evidences that those involved were  
8 struggling to address concerning behaviour ..."  
9 A. Yes.  
10 Q. You've highlighted some of those already.  
11 The second one is in relation to the family friends  
12 who you've talked about.  
13 Then the next point:  
14 "His approach was to paint himself as being at risk  
15 and struggling, which staff appear to have bought into."  
16 A. Yes.  
17 Q. Can you tell us a bit about that?  
18 A. I think on reading the records and the way in which he  
19 presented the situation was almost that he was at risk  
20 of allegation because of the lack of boundaries that  
21 were around and that he didn't know what to do about  
22 that. And that my assessment of reading some of the  
23 records of meetings were that that was accepted at face  
24 value. And so therefore Mr Martin's struggles became  
25 the focus of the discussion rather than what was

1           happening with the children.

2   Q.   Then the next bullet point refers to the Form F and the  
3       fresh eyes --

4   A.   Yes.

5   Q.   -- introducing a greater level of rigour?

6   A.   Yes.

7   Q.   Then the final bullet point talks about the issue of  
8       health, which you've mentioned?

9   A.   Mm-hmm.

10  Q.   Then over the page you mention the issue about them  
11       seeing Mr Martin placing himself at risk of allegations.

12  A.   Yes.

13  Q.   Then the next bullet point is that looking at the young  
14       people's experience, you refer to various issues that  
15       come through as leading up to and being integral to  
16       abuse: being given alcohol, I think you mentioned in  
17       your evidence earlier cannabis potentially?

18  A.   Yes.

19  Q.   Doubtful boundaries about nakedness and sleep  
20       arrangements, large number of visitors, dishonesty, sex  
21       talk. All of that is set out in the records that you've  
22       looked at?

23  A.   Yes.

24  Q.   I suppose you would say that those patterns of behaviour  
25       should have been seen for what they were at the time?

1 A. Yes.

2 I think on reflection it took some time for people  
3 to stand back and see that whole picture, whereas if you  
4 think about current practice, where it's very much about  
5 keeping a chronology of events and an overview and where  
6 we have a series of allegations and complaints being  
7 made against one foster carer, that all of those would  
8 be considered, followed through and reported back to the  
9 panel and not seeing that necessarily in this case.

10 Q. Okay. You say in the final bullet point that you're  
11 surprised that it didn't lead to a review of some  
12 sort --

13 A. Yes.

14 Q. -- on that point of conviction, there should have  
15 been -- and as you've already said you want to learn the  
16 lessons from this case. So having undertaken the review  
17 and reviewed the additional files that you found, what's  
18 your plan in terms of learning from this?

19 A. Yes, thank you. In terms of a plan, I think there's  
20 still some gaps that we need to address. So we've found  
21 the foster carer's files, I've read them in advance of  
22 coming here to give evidence, but a further analysis of  
23 that would be required in order to give the full picture  
24 here.

25 I believe that there is merit in undertaking

1 a learning exercise around this involving a whole range  
2 of staff, not just those that are involved in family  
3 placement but those involved in child protection and  
4 using this, although it's a historical case, to actually  
5 explore the deficiencies in practice in this time,  
6 consider what needs to be done in the present time and  
7 re-evaluate our processes and practices and approaches  
8 in the current day.

9 So I've already spoken to the chair of the Child  
10 Protection Committee, for example, and the chair of our  
11 chief officer's group for public protection for support  
12 to enable that to happen, so that's certainly something  
13 that we would want to take forward. But very much in  
14 the early days of planning that.

15 Q. I want to move on to some other matters now, so  
16 I mentioned earlier that there were four convictions,  
17 we've looked at three of them. The final one is at  
18 JUS-000000090, which we can see that this is the  
19 conviction of Anthony Clark. The conviction, if we  
20 scroll down a little, was in December 2009 and it's two  
21 charges of sexual offences, which we'll come to, and the  
22 sentence was -- it's noted here, my Lady, as one year  
23 imprisonment?

24 LADY SMITH: Yes.

25 MS INNES: However, that was quashed and a probation order

1           was made.

2   LADY SMITH: Thank you.

3   MS INNES: We'll come to that just for reference in  
4           a moment.

5           If we look on to page 3, I think we see the charges.

6           The first charge is in respect of placing a -- of  
7           taking photographs essentially of a child.

8           Then the third charge is in respect of possession of  
9           photographs. And those are from 2007 to 2008.

10          And the child I think was aged 16 at the time.

11          If we look on just for completeness to page 6 --  
12         sorry. Yes, it's page 4 -- we see the note of the  
13         decision in the appeal. So 26 June 2010 and the  
14         interlocutor starts at the bottom of the page. Then if  
15         we go on to the next page Your Ladyship can see:

16                 "The court, having heard the representative for the  
17         appellant, sustained the appeal; quashed the extended  
18         sentence of imprisonment imposed on the appellant and  
19         substituted a probation order for a period of three  
20         years."

21          So that was the outcome of that case.

22          In terms of this conviction, are you aware if there  
23         was any review or follow up to it?

24   A. I don't think there was, no.

25   Q. Do you know why that would have been? I mean that's

1 much more recent, obviously.

2 A. The information I can give you is that I know that there  
3 would have been a review of the registration of the  
4 foster carers, because there's a couple involved in this  
5 particular case and a report submitted to the fostering  
6 and permanent panel for a decision on that.

7 On reflection, I would suggest that that's not  
8 a sufficient review or report in terms of learning  
9 lessons from this. And one of the things I think that  
10 should happen is that where we have a conviction of  
11 a foster carer, that there should automatically be  
12 a review of that case, in the same way that you would  
13 carry out a significant case review.

14 Q. Do you think that if you were to carry out that review  
15 within the Local Authority, and obviously you could  
16 share the learning of that within your own Local  
17 Authority, do you think that learning from reviews like  
18 that should be shared more widely?

19 A. Yes.

20 Q. How would you go about doing that?

21 A. Well, one of the ways that is carried out in relation to  
22 significant case reviews that -- or initial case reviews  
23 or learning reviews that are carried out under the  
24 auspices of the Child Protection Committee are reported  
25 to the Care Inspectorate, and they carry out an analysis



1 of those and share the key themes and learning across  
2 Scotland from each of those.

3 More locally, we have very good relationships with  
4 our Local Authorities that formed the Tayside region  
5 before, so we would -- and currently would share  
6 outcomes from a case review with our partners.  
7 Understanding that Police Scotland and NHS Tayside cover  
8 the whole area. So there are opportunities to do that.

9 And one of the ways that could close this circle is  
10 ensuring that where a foster carer is convicted of  
11 offences against children, that that would automatically  
12 become -- you know, or fulfil the criteria for a review  
13 and at the moment I'm not sure that it does.

14 LADY SMITH: Don't all Local Authorities have an interest in  
15 knowing what each other have experienced in terms of  
16 foster carers being convicted, what's been learnt --

17 A. Yes.

18 LADY SMITH: -- as a result? And maybe a way forward is to  
19 find a means of sharing with each other?

20 A. Yes. Yes.

21 LADY SMITH: Just going back to Pol Martin for a moment, I'm  
22 sorry, I've been mulling something over, you've  
23 explained you now have a plan and you've told us what  
24 that's going to involve. Do you think you'd have got to  
25 that at this stage if his case had not been highlighted

1 in this Inquiry?

2 A. No, I don't think we would. And I think the opportunity  
3 to continue to reflect on this and -- we remained  
4 concerned that we didn't have the foster carer's file  
5 and continued to search for that, but I think seeing the  
6 evidence before the Inquiry, having the opportunity to  
7 hear testimony and also hear -- see Mr Martin's  
8 statement has encouraged me to look further into this  
9 particular case.

10 LADY SMITH: Thank you very much.

11 MS INNES: Just dealing with hearing some of the evidence  
12 that has been given in the course of the Inquiry, in  
13 your hard copy folder at the second tab you should have  
14 a table of the evidence that's been given and the  
15 relevant pseudonyms of people.

16 A. Yes.

17 Q. A table there.

18 A. Yes.

19 Q. The first person that I'm going to refer to doesn't in  
20 fact have a pseudonym because she waived anonymity and  
21 that person is Kerry McDonald. Were you able to listen  
22 to Kerry's evidence yourself?

23 A. Yes, I did.

24 Q. Okay. I am going to ask you a couple of questions about  
25 her evidence, but before I do that, did you have any

1 reflections on her evidence from listening to it?

2 A. Yes. I think my reflections on listening to Kerry's  
3 testimony and her experiences was, you know, it's a very  
4 sobering account of difficult and traumatic experiences  
5 and abusive experiences in foster care. And her  
6 attempts to seek some support or to seek some action and  
7 to be rescued out of what was a very difficult situation  
8 went unheard. And that's an entirely unsatisfactory  
9 outcome for any young person.

10 Q. I think an example of that might be at -- if we look at  
11 PKC-000000163, page 7, so these are some of Kerry's  
12 records that were looked at at the time that she gave  
13 evidence. The first entry refers to an office visit  
14 from her father and then the next paragraph refers to  
15 the social worker saying:

16 "... I would phone her foster carer to tell her that  
17 he hadn't been at the school, perhaps Kerry was worried  
18 in case he would go. Kerry told her father that the  
19 foster carer used a leather belt on her. I told the  
20 foster carer that this had been proved wrong in the past  
21 when Kerry had said this."

22 And then it goes on from there. So there was that  
23 entry.

24 Then if we look further down the page, at  
25 24 November 1987, the very last entry on the page, and

1 it says there:

2 "At about 6.15 pm Kerry arrived at the Girls'  
3 Brigade company I am involved with. She said she wasn't  
4 going back to the foster parents."

5 A. Yes.

6 Q. I think we see even on this page that some of the things  
7 that you mentioned there, that she was seeking help, she  
8 was telling her dad. She went to find the social worker  
9 in her -- in the social worker's spare time,  
10 essentially --

11 A. Yes.

12 Q. -- to say that she didn't want to go back to the foster  
13 parents. I think you say that you recognise that that  
14 went unheard.

15 A. Yes.

16 Q. Just looking at this page, I think you'll be aware that  
17 Kerry asked for a copy of her records from the Local  
18 Authority?

19 A. Yes.

20 Q. And she was given a copy, which was obviously redacted.  
21 If we can look at WIT-3-000001293 and the first  
22 page there, we can see that the part that I read out  
23 about her telling her dad that she'd been hit with  
24 a belt, that that's blanked out on the copy that was  
25 given to Kerry.

1 A. (Witness nods)

2 Yes.

3 Q. I think there was -- again we can look at it if need be,  
4 but I think you're aware that there was also a report of  
5 Kerry having been to a police station, so if we go to  
6 pages 4 and 5 of this document and look at the bottom of  
7 page 4 and we can see that there's a whole section  
8 redacted and at the top of page 5 a whole section  
9 redacted.

10 A. Yes.

11 Q. Then if we go back to PKC-000000163 at page 28, so this  
12 is the same page, if we look down to the bottom of the  
13 page, we can see there the paragraph that was redacted  
14 says:

15 "Telephoned the foster mother who eventually agreed  
16 to come to the police station. She was very overbearing  
17 and domineering when she first arrived. Kerry said  
18 nothing for the 30 minutes or so that the foster mother  
19 was with her and most of the time refused to even look  
20 at her. The foster mother denied any truth in the  
21 allegation of beating Kerry with a belt, although she  
22 admitted to tugging her hair, clearly she finds it  
23 difficult to know how best to deal with Kerry's  
24 continuing pilfering and lying. The foster mother asked  
25 me to leave the room for a little while and it was clear

1           when I re-entered the room that she was trying to get  
2           through to Kerry by affectionate physical contact, which  
3           was being rejected. In any case Kerry was then helped  
4           [and it says above that 'dragged'] out of her chair and  
5           out of the police station into the foster carer's car."

6           Now, all of that's been redacted on the records that  
7           have been given to Kerry.

8   A. Yes.

9   Q. Obviously we understand that certain things need to be  
10       redacted. The concern here is that in those parts that  
11       were redacted there were reports of Kerry suffering  
12       abuse or certainly information about the attitude of the  
13       foster parent towards her.

14   A. Yes.

15   Q. Do you have any comment on that?

16   A. Yes. And thanks for drawing this to our attention.

17           The fact that Kerry was actually party to that  
18       discussion and those events means that she should have  
19       been able to have that information given to her.

20           When this was raised and noticed at the point where  
21       Kerry was giving evidence to the Inquiry, we immediately  
22       responded and raised that with our data protection  
23       officer, so the matter has been considered with some  
24       immediacy and the error appreciated and recognised.

25           So we're recognising that the entire passage that

1       you've discussed there has been removed and that's been  
2       discussed with the case officer who was involved in this  
3       particular case, who recognises that on reflection that  
4       there has been an error here and that information should  
5       have been provided.

6             I think the explanation there is that, you know,  
7       this is not something that has been seen in other  
8       aspects of that person's work. We've had a close look  
9       at other historical records that that person has been  
10      involved with and see this as a one-off event.

11            So a number of subject access requests have been  
12      reviewed and the issue discussed in detail with the  
13      member of staff concerned.

14            In addition, the new arrangements will include  
15      a check by another officer before records are released  
16      to applicants and a revisiting of training and  
17      development for the staff.

18            We carried out some joint training between social  
19      workers and case officers who are dealing with the  
20      subject access requests some time ago, so it's likely  
21      that we will revisit that because I think it's really  
22      helpful to do that together to understand the  
23      sensitivities involved and the nature of the work that  
24      they're involved in, because I think it is very  
25      sensitive material and it is very emotive in some -- in

1           many regards. So we will be taking that forward too.

2   LADY SMITH: It strikes me that there's another lesson that  
3           you're probably aware of here. If you take somebody  
4           like this, who's left childhood not exactly feeling  
5           imbued with trust and confidence in the Local Authority,  
6           or indeed authority in general --

7   A. (Witness nods)

8   LADY SMITH: -- who then in adulthood asserts a right they  
9           have to see what was written about things they were  
10          involved in and they're faced with parts of it being  
11          withheld.

12   A. Yes.

13   LADY SMITH: That just increases the earlier feeling that  
14          they can't trust this authority, they can't trust  
15          generally authority, whereas the Local Authority has  
16          missed an opportunity to do something to try and  
17          demonstrate to them that in some respects they can be  
18          trusted.

19   A. Yes. Absolutely. And that this is an opportunity for  
20          people to understand their past and to understand and  
21          make sense of that because they have a lot of questions  
22          around that.

23   LADY SMITH: Yes.

24   A. So therefore any gap in that is not helpful to them,  
25          absolutely --



1 LADY SMITH: Of course I fully appreciate SARs are hard to  
2 handle and sometimes there has to be redaction, but as  
3 soon as you get block redactions of paragraphs --  
4 A. Yes.  
5 LADY SMITH: -- it's bound to impact negatively on the  
6 person requesting.  
7 A. Yes, and I think we absolutely recognise that --  
8 LADY SMITH: Yes.  
9 A. -- and recognise the requirement for sensitive support  
10 for any individual seeking information of this nature.  
11 LADY SMITH: Good.  
12 A. And are continually trying to improve upon that.  
13 LADY SMITH: Thank you.  
14 Ms Innes.  
15 MS INNES: Thank you, my Lady.  
16 I'd like to ask you about the evidence of another  
17 applicant, who has the pseudonym 'Louise'. 'Louise'  
18 gave evidence on Day 314, which was 12 August 2022, and  
19 I don't think you were able to listen to 'Louise's'  
20 evidence yourself?  
21 A. No.  
22 Q. Although I assume you've had access to or members of  
23 your team have had access to her statement and perhaps  
24 the transcript of her evidence?  
25 A. Yes, I have, I've seen the transcript of her evidence

1 but I wasn't able to participate on that day.

2 Q. Again, just before I ask you a couple of questions about  
3 her evidence, was there anything particular in relation  
4 to her evidence that you noted?

5 A. Again, the evidence from 'Louise' relates to very long  
6 periods of being in the care or in a household where she  
7 felt different, not one of the family. The extent of  
8 that -- the emotional impact of that is -- is  
9 significant. She talks a lot about the impact on her  
10 current lifestyle and relationships. And in this  
11 situation again I think we're seeing a young person  
12 whose behaviour and cries for help and seeking out  
13 support is -- goes unheard.

14 Q. I think although she -- there was an issue of sexual  
15 abuse by another foster child who was in the  
16 household --

17 A. Yes.

18 Q. -- she also spoke about some physical abuse, but she  
19 said in her evidence that it had little or she felt it  
20 had little or no impact on her, that the mental or  
21 emotional abuse had a much more significant impact.

22 A. (Witness nods)

23 Q. I just wanted to ask you about some issues that she  
24 raised broadly in her evidence and we know that she was  
25 placed with her foster carers at quite a young age and

1           there appeared to be a level of informality in terms of  
2           the social worker's interactions with her, to the extent  
3           that she was led to believe that the social worker was  
4           a friend for a long number of years and the Local  
5           Authority then started trying to impose greater  
6           formality, which was resisted by the carer.

7   A.   Yes.

8   Q.   Do you have any comment on that?

9   A.   Yes.  In reading 'Louise's' statements, you know, that  
10       struck -- stood out for me, and the importance of  
11       separation of the support for the carer and the support  
12       for the child and ensuring that the child is clear about  
13       who is their worker, who is their person, who is their  
14       support person, and have independent support in that.  
15       That came out -- that struck me very clearly in this  
16       case.

17  Q.   She also talked about the number of social workers she  
18       had.  I think she said she had something like 19 social  
19       workers?

20  A.   Yes.

21  Q.   And, you know, she appreciated, I think she said in her  
22       evidence that people move jobs and people are ill or  
23       people go on maternity leave or they retire, but one of  
24       the issues that she raised was the difficulty of lack of  
25       continuity, being able to build a relationship with

1           someone.

2   A.   Yes.

3   Q.   Is that again something that is potentially an ongoing  
4       issue in social work?

5   A.   It's certainly something that would be very carefully  
6       considered in terms of the need for continuity,  
7       stability, and for developing longstanding and trusting  
8       relationships with children.  And we've given a lot of  
9       consideration to minimise that change and to ensure that  
10      children have access to a trusted person at all times.

11  Q.   Another issue that she addressed, which has similarities  
12      to other matters that we've already discussed today, is  
13      the level of control that her foster carer had over the  
14      social workers, that she seemed to exert a lot of  
15      control.

16  A.   Yes.  I think in this particular situation for 'Louise'  
17      that's clearly there, but I think we've seen it in other  
18      cases that are before the Inquiry from, you know, that  
19      originate from Perth and Kinross, where there seems to  
20      be, in that context and in that time, a real difficulty  
21      in challenging the carers and making some difficult  
22      decisions around children's future.  So it's almost as  
23      if those -- the carers have a right over and above the  
24      child.

25  Q.   Then another significant issue that she mentioned was

1           that she had little knowledge of her own family and  
2           I think she discovered --

3   A.   Yes.

4   Q.   -- later in life that she had 13 siblings.

5   A.   Yes.

6   Q.   She talked about meeting two of her siblings by chance  
7           in the library.

8   A.   (Witness nods)

9   Q.   And trying to trace and find her family she described as  
10          being one of the most difficult things that she'd done.

11  A.   Yeah. I think -- you know, reading 'Louise's' account  
12          of her childhood and her lack of understanding and  
13          knowledge about her past, her family and her life story,  
14          as we might call it, is very apparent, that she goes on  
15          to suffer even more loss in terms of those siblings  
16          later on in life. So her account is certainly, you  
17          know, full of gaps in her knowledge and loss in relation  
18          to her family and a real need to seek that out.

19  Q.   A statement which was read in of a person with the  
20          pseudonym 'Frank', that was read in on Day 307, 12 July  
21          of this year. Just in terms of his statement, I think  
22          one of the significant things that comes out of his  
23          statement is that he was in one placement, abuse was  
24          alleged to the extent that neighbours were phoning the  
25          RSSPCC --

1 A. Yes.

2 Q. He was removed from that placement, I think he went to  
3 residential care for a while, and then he was returned  
4 back to the foster care household and again there were  
5 issues arising there.

6 A. Yes.

7 Q. Do you have any comment on the circumstances of  
8 'Frank's' --

9 A. Yes, in relation to 'Frank's' case I think the severity  
10 of the physical assaults and abuse that he experienced  
11 is very sad to read. And one of the things that  
12 I noticed in that particular case was that the -- the  
13 RSPCC officer was involved and actually had come to  
14 a different conclusion, I think, from the social work  
15 services, so there were issues around there about  
16 thresholds and what's acceptable for children and the  
17 challenge around that.

18 So -- and for me, reading 'Frank's' account,  
19 appreciating that what seems to be very much a sole  
20 social work or social worker or sole social work service  
21 dealing with what are, as I was describing, very serious  
22 matters without considering that wider network around  
23 the child and the neighbourhood and the concerns there.

24 So, yeah, a very sad case.

25 Q. I'm going to move to look at Part B of your response

1 finally. Just before I leave the applicants themselves,  
2 I don't know if there was any other comment that you  
3 wanted to make on any of the other evidence that you've  
4 listened to or read?

5 A. I think it's overwhelmingly a position where children  
6 are trying to tell people about the difficulties they're  
7 experiencing and not being heard or the door not being  
8 opened and the long-lasting effects of that and the lack  
9 of trust, not only in terms of that caring relationship  
10 that they had but the lack of trust in someone who was  
11 actually invested with the responsibility of keeping  
12 them safe.

13 Q. These are points that are as relevant today as --

14 A. Yes.

15 Q. -- they were at whatever time these applicants were in  
16 care?

17 A. Yes.

18 Q. Just before I move to your Part B, I think you wanted to  
19 say something about summaries that you had provided to  
20 the Inquiry?

21 A. Yes.

22 Q. You provided some case summaries in respect of children  
23 where you had found that abuse had been alleged?

24 A. Yes. Yes. We provided summary information on  
25 a template and those have been provided to the Inquiry

1 in relation to all of those circumstances in which we  
2 carried out a stage 3 in-depth review of those records.

3 On reflection, and having heard the testimony of  
4 witnesses to this Inquiry and further interrogation of  
5 records, and knowing that we have other information that  
6 we've pulled together to prepare that, they do seem  
7 rather sanitised and bereft of some of the richer  
8 material that would benefit the Inquiry, so we do have  
9 other records that could supplement this, but my  
10 reflection is that I think some really important  
11 material is perhaps not reflected in these templates  
12 that have been provided to you.

13 Q. Okay.

14 Just for Your Ladyship's assistance, there are some  
15 examples of these in the bundle --

16 LADY SMITH: Thank you.

17 MS INNES: -- there were 44, I think, templates, so not all  
18 of them have been put into the bundle, but if we look at  
19 PKC-000000084, this relates to Kerry McDonald.  
20 Your Ladyship can see that this is a template with  
21 various questions and answers that have been provided to  
22 us by the Local Authority.

23 If we go on to, for example, page 3, we can see  
24 answers to questions about over what period was the  
25 abuse alleged to have taken place, what was the process



1 of investigation, and, I think, for example in Kerry's  
2 case there's a lot of focus on a later complaint that  
3 she made?

4 A. Yes.

5 Q. Perhaps rather than looking at some of the material that  
6 we looked at during the course of Kerry's evidence?

7 A. Yes.

8 Q. And maybe that's the sort of thing that you're referring  
9 to, Jacquie?

10 A. Yes.

11 Q. Okay.

12 A. And actually a bit more detail around the nature of the  
13 abuse that was being experienced.

14 Q. Okay.

15 If we can look, please, at PKC-000000035, page 125,  
16 this is the response in relation to the questions about  
17 acknowledgement of abuse and at 3.1(a) the Local  
18 Authority accepts that abuse took place and in terms of  
19 the outcome of your file review, you note that there's  
20 evidence of 42 children alleging abuse or having been  
21 found to be abused in foster care over the relevant  
22 period and you accept that it is probable that there  
23 were other cases, and I think Pol Martin perhaps is --  
24 and those children who were in foster care who came to  
25 light during the course of the Inquiry --

1 A. Yes.

2 Q. -- would be an example of that, that you hadn't found  
3 that during your own file review and it came to light  
4 later.

5 A. (Witness nods)

6 Q. Equally, you accept that there may have been allegations  
7 which weren't recorded or allegations weren't made at  
8 the time?

9 A. Yes, or there may be no records available.

10 Q. Yes.

11 If we move on, please, to the next page, page 126  
12 and question 3.2(a), the question there is:

13 "Does the Local Authority accept that its systems  
14 failed to protect children over that period?"

15 There's reference to the file review. There's  
16 a paragraph beginning:

17 "From the evidence available, it is our belief that  
18 the organisation was at the forefront of new thinking in  
19 respect of care models and practice. This included in  
20 some instances influencing changes in legislation and  
21 national policy and this work has been guided by sound  
22 research and appropriate national reports. There is  
23 evidence that such changes have been incremental and  
24 sustained. Within this context, there is no evidence of  
25 systemic failures or systems failures within the

1 establishment or organisation. The instances where the  
2 abuse of children has been reported or recorded relate  
3 to the unacceptable and abhorrent behaviours of  
4 individuals who abused their position as trusted adults  
5 and employees of the organisation. Although this is  
6 a significant proportion of children, there is no  
7 evidence that this was as a result of systemic failings  
8 or systems failures."

9 I wonder if, having reflected further, that's still  
10 your position or do you have a different view?

11 A. On reflection, I think my personal and professional view  
12 would be that, having considered the prevalence and the  
13 individual testimonies around that failure to be heard,  
14 that failure to respond and the failure to act to remove  
15 that abuse, in many instances would suggest that the  
16 failure to protect a significant proportion of children  
17 in foster care, my assessment would be that that is  
18 a systemic failing.

19 Q. Then in terms of responses to abuse at page 128 and  
20 paragraph 3.3(a), you're being asked to address the  
21 question of whether the Local Authority accepts that  
22 there were failures or deficiencies in its response to  
23 abuse. The second paragraph there says:

24 "Looking back, children in foster care prior to  
25 these developments lacked access to levels of

1 independent support ..."

2 A. Yes.

3 Q. "It is highly probable that there were instances where  
4 children experienced abuse and this went unreported or  
5 unnoticed."

6 You had noted from your review that the response did  
7 not seem to consider fully the risks associated with  
8 continuing with the placement, which was the most common  
9 outcome.

10 A. Yes.

11 Q. Am I right in saying that it is accepted that there were  
12 failures and deficiencies in response to abuse?

13 A. Yes.

14 Q. I think we've seen some examples of that --

15 A. Yes.

16 Q. -- in the case of Pol Martin, the review that you've  
17 provided to us.

18 A. (Witness nods)

19 Q. Beyond what we've spoken about today, is there anything  
20 else that I've not covered that you wanted to highlight  
21 in terms of, for example, lessons to be learned, changes  
22 to be made?

23 A. I've got a number of things, but I would like to just  
24 highlight a few for you.

25 I think one of the questions that has arisen for me

1 is around the deep exploration of the motivation to  
2 become a foster carer, because I think over time in the  
3 examples that we've considered in detail you see  
4 a motivation sometimes for financial gain and that comes  
5 through in some of the witness statements as well, that  
6 that's how it felt to them too. So that need for a very  
7 rigorous assessment and deeper exploration of the  
8 motivation to become a foster carer I think is a key  
9 lesson.

10 And that I think on reflection from some of the  
11 witness statements to the Inquiry you can see that very  
12 early on in a placement these children -- these adults  
13 who were children at the time are reflecting that they  
14 felt that something wasn't right and they began to  
15 experience abuse very early on in placement. It wasn't  
16 something that came out in a number of years. It was  
17 almost immediately. So that very risky period at that  
18 early stage of a placement and the extent to which that  
19 placement is supported and the child observed and has  
20 access to a trusted adult they can speak to at that very  
21 early stage I think is crucial. So some reflection on  
22 that about our practices at that very early stage of  
23 placement.

24 And that separation of support that I mentioned  
25 earlier, so I won't go into that in any more detail.

1 I think also there's a common theme coming through  
2 that the behaviour which demonstrates children's  
3 distress can be misconstrued and you see in a lot of  
4 these cases children talking about bed-wetting and what  
5 that would mean for them.

6 Q. Yes.

7 A. So -- and I think that tendency to very quickly decide  
8 on a course of action, which was that -- to quickly and  
9 unilaterally as a service decide that what was being  
10 said was unsubstantiated and for no further action to be  
11 taken, I think that's a key lesson as well.

12 So the importance of independence in decision making  
13 and we spoke about the role of the fostering and  
14 permanence panel, but that role of independence of -- to  
15 challenge both for foster carers but also reviewing the  
16 child's placement and the regularity of that I think is  
17 key.

18 Q. Okay.

19 A. And training and development and knowledge and  
20 understanding of staff.

21 And I think we also, from a Perth and Kinross  
22 perspective, have learned some significant lessons  
23 around our recording practices where we found  
24 significant gaps.

25 Q. Yes.

1 A. And I think we've already spoken about the importance of  
2 supporting adults to access their records.

3 Q. Yes.

4 A. Historical records, and the sensitivities around that,  
5 so that's a major lesson for us too.

6 And the child's voice and ensuring that the child's  
7 voice is at the centre of all decision-making and that  
8 they have a trusted adult.

9 And also I think there are a number of instances as  
10 we've gone through the evidence today where we see the  
11 family raising concerns about their child in foster  
12 placement, so ensuring the family voice is heard too.

13 Q. Yes.

14 A. And the lessons from the Pol Martin case and encouraging  
15 and supporting staff to think the unthinkable and to  
16 actually explore that in depth and be supported to do  
17 that through strong supervision and strong team work.

18 Recruitment. Recruiting the right people to become  
19 foster carers, but recruitment of the right people to  
20 develop an expertise in this particular area. And so  
21 it's about bringing the right people into that caring  
22 role, but the right people into that supervisory --

23 Q. As well.

24 A. -- and social work role as well.

25 And I think there are some parallels to be drawn

1 from the lessons in relation to foster care and to  
2 private fostering arrangements, as we saw earlier in  
3 relation to the case of Richard Clark, and kinship care,  
4 because the same lessons apply.

5 Thank you.

6 MS INNES: Thank you very much for your evidence, Jacquie.

7 I have no questions.

8 There are no applications, my Lady.

9 LADY SMITH: Are there any outstanding applications for  
10 questions?

11 Jacquie, that completes everything we have for you.  
12 Thank you so much for all that you and your authority  
13 have contributed to our work here. You've presented us  
14 with a really full and thorough volume now of everything  
15 that you have to assist and I'm really grateful to you  
16 for that, but also for coming here to be prepared to be  
17 probed a bit and discuss so openly this morning how you  
18 see these events of the past, looking at them through  
19 a 2022 eye. That's really helpful to me.

20 Thank you for that and I'm now able to let you go  
21 and hopefully have a more relaxing time for the rest of  
22 today.

23 A. Thank you, my Lady.

24 LADY SMITH: Thank you.

25 (The witness withdrew)



1 LADY SMITH: I'll rise now for the lunch break and we'll sit  
2 again at 2 o'clock for Borders Council.  
3 Thank you.  
4 (1.05 pm)  
5 (The luncheon adjournment)  
6 (2.00 pm)  
7 LADY SMITH: Good afternoon.  
8 We turn now, as I said earlier, to Scottish Borders  
9 Council. I'm told our witness is ready, Ms Innes.  
10 MS INNES: Yes, my Lady, the next witness is  
11 Stuart Easingwood.  
12 LADY SMITH: Thank you.  
13 Stuart Easingwood (affirmed)  
14 LADY SMITH: We do need you to use the microphone, because  
15 we listen to you through the sound system.  
16 A. Okay.  
17 LADY SMITH: If you could see that you do that.  
18 Help me with this, how would you like me to address  
19 you? I'm happy to use Mr Easingwood or your first name  
20 if you're more comfortable with that?  
21 A. My first name, please, that would be preferable, thank  
22 you.  
23 LADY SMITH: Stuart, I see you've obviously got notes with  
24 you on your iPad there, but the documents that you've  
25 helped us with are also in the red folder and we'll

1 bring documents up on screen as we go through your  
2 evidence.

3 A. Sure.

4 LADY SMITH: So you might find that useful too.

5 A. No problem.

6 LADY SMITH: If you have any questions at any point or if  
7 you're not sure what's going on do speak up and we'll do  
8 what we can to help you or if there's any other way  
9 I can help you give your evidence as clearly and  
10 comfortably as you can let me know.

11 I normally take a break in about an hour from now,  
12 and I'll do that if that works for you?

13 A. (Witness nods)

14 LADY SMITH: But if you want a break at any other point just  
15 say, all right?

16 A. No problem, thank you.

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

18 MS INNES: Thank you, my Lady.

19 Questions from Ms Innes

20 MS INNES: Stuart, can I start by asking you your date of  
21 birth?

22 A. [REDACTED] 73.

23 Q. You've provided the Inquiry with a copy of your CV,  
24 which you'll find in the red folder in front of you.

25 You tell us there that you qualified I think as a social

1 worker in 2001; is that right?

2 A. That's correct, yes.

3 Q. Prior to that we can see from your CV that you'd worked

4 in part-time roles supporting young people?

5 A. That's correct.

6 Q. Then from 2002 to 2004 you worked with the City of

7 Edinburgh Council in a residential school?

8 A. That's correct.

9 Q. Then you moved to East Lothian where you worked from

10 2002 to 2016, and you were involved in all social work

11 functions at that point, you say you spent some of that

12 time based in a school in East Lothian?

13 A. That's correct.

14 Q. Then in February 2006 you moved to Scottish Borders

15 Council?

16 A. Yes.

17 Q. And you have remained there since, obviously in

18 different roles?

19 A. (Witness nods)

20 Q. You started as a senior social worker?

21 A. (Witness nods)

22 Q. And you worked in Children and Families --

23 A. That's correct, yes.

24 Q. -- at that time?

25 Then in 2009 you became a social work team leader?

1 A. (Witness nods)

2 Q. And that was still in the area of Children and Families?

3 A. Correct, yes.

4 Q. Then in August 2014 you became a Locality Manager?

5 A. Yes.

6 Q. That suggests that you were responsible for various  
7 areas, I think, in the Borders at that time --

8 A. Yes, that's correct.

9 Q. Again you were dealing with children and families as  
10 well as provision for children with additional support  
11 needs?

12 A. That's correct.

13 Q. Then you became a group manager and it says Central, so  
14 is that another sort of geographical area?

15 A. Yes, it was central services, so it was in relation to  
16 child and adult protection -- well, child protection at  
17 that time as well as the duty and intake service.

18 Q. Was that across the whole of the Borders then?

19 A. There were teams based centrally that covered -- the  
20 responsibility went across all of the Borders, yes.

21 Q. Then you became Interim Chief Officer for Public  
22 Protection in 2017 up to 2018?

23 A. Yeah, that's correct.

24 Q. And that included child protection?

25 A. Correct, yes.

1 Q. Then you spent a time from 2018 up to June 2020 I think  
2 you became Chief Social Work Officer at that time?

3 A. That's correct.

4 Q. You were also public protection officer at the time?

5 A. Yes.

6 Q. And you were the interim service director for children  
7 and young people?

8 A. (Witness nods)

9 Q. So at that time were you covering the area of education  
10 as well as --

11 A. That's correct. The role was Chief Social Work and  
12 Public Protection Officer, so it covered both Chief  
13 Social Work Officer functions as well as looking at  
14 public protection services in the Borders and, correct,  
15 it also covered part of a directorate for Children and  
16 Young People's Services, which effectively was all  
17 educational provision as well as Children and Families  
18 social work.

19 Q. Okay. Then you I think changed role in July 2020 and  
20 you describe your role then as being Chief Social Work  
21 Officer and Public Protection Officer?

22 A. (Witness nods)

23 Q. I think your position as Interim Service Director had  
24 fallen away at that time?

25 A. Correct, correct. The education component of the role

1           was taken up by a new director that was appointed.

2   Q.   Then in September 2021 you became Director of Social  
3       Work & Practice in Borders?

4   A.   That's correct.

5   Q.   That's your current role?

6   A.   That's correct.

7   Q.   And you remain Chief Social Work Officer?

8   A.   That's correct.

9   Q.   We obviously have a response to a Section 21 notice that  
10       was served on the Borders and were you involved in the  
11       preparation of that response to any extent?

12  A.   I was correct, yes. I had oversight of the preparation  
13       of the response.

14  Q.   Okay. If we can look first of all at the response at  
15       SBC-000000015, page 1. First of all just looking at the  
16       predecessor authorities.

17           You tell us that in the early period, 1930 to 1975,  
18       there were four county councils: Berwickshire,  
19       Peeblesshire, Roxburgh and Selkirkshire.

20           Then from 1975 to 1996 it was Borders Regional  
21       Council.

22           Then 1996 saw it turning into Scottish Borders  
23       Council?

24  A.   That's correct, yes.

25  Q.   You then go on to address various questions and if I can

1 take you to numbers at page 17, so you were asked about  
2 the number of children that the Local Authority  
3 accommodated at a time in foster care and in how many  
4 placements and you provide some information that you  
5 obtained -- if you think about that early period when  
6 there were county councils, did you manage to find some  
7 material in relation to numbers over that period?

8 A. Yes. There was some material as reflected in the  
9 response. Again there were challenges, to be honest, in  
10 terms of identifying numbers that had been recorded and  
11 I suppose how they'd been recorded and where they'd been  
12 recorded, but we did manage to ascertain from, for  
13 example, the Roxburgh Public Health and Public  
14 Assistance Committee in 1931 there were numbers that  
15 were identified there, which was 15 at that particular  
16 juncture. Addressed -- some of the language that was  
17 used is not something that's familiar or common in  
18 today's practice, but also the terminology of  
19 boarded-out was used quite frequently and seemed to  
20 intersperse with other references, but both from  
21 Roxburgh Public Health and Social Welfare Committee  
22 again showing the changes in terms of the governance  
23 arrangements in that local setting at that time, from  
24 that in 1945, for example, managed to -- we identified  
25 the recorded number of boarded-out children being 10

1 girls aged between 3 and 13 and 10 boys aged between 6  
2 months and 13 years. The level of detail is quite  
3 scant, but that's the information that we were able to  
4 ascertain from historical records.

5 Q. Okay.

6 You then move on to the Borders Regional Council  
7 period. For example, you tell us in August 1994 there  
8 were 17 children placed with what's called community  
9 carers, which are foster carers for children aged over  
10 12, and 20 children with 11 foster carers. Was that all  
11 the information that you were able to find over the  
12 period when it was a region?

13 A. There was -- there were again challenges in terms of  
14 identifying some of the information, but in relation to  
15 that, as per the response that was made, we were able to  
16 identify, for example, on 30 August 1994 the numbers  
17 that you mention. The 20 children with 11 foster carers  
18 in terms of the provision that was there at that  
19 particular time.

20 Again, I would probably reflect that the records  
21 even then were not as easily -- it wasn't as easy to be  
22 able to identify the numbers consistently on an ongoing  
23 basis.

24 Q. Okay. Then you came into the period of Scottish Borders  
25 Council and you provided us with some figures in



1 relation to that time.

2 For example, you say in 2000 there were 43 foster  
3 and community carers offering 72 placements.

4 Then moving to September 2015, there were 72  
5 children in Scottish Borders placements and 18 children  
6 in placements with independent foster care providers.

7 A. Yes, that's correct. Yes.

8 Q. Then at the time of writing this, and that was in  
9 January 2020, there were 60 looked-after children in  
10 foster care placements in 42 households and it says that  
11 doesn't include 13 continuing care foster placements --  
12 so would that be for children aged over 18?

13 A. It could be. It could be over 16 who have chosen to or  
14 elected to go into continuing care, depending on their  
15 legal status.

16 Q. Then 12 children in short-break respite placements.

17 A. Correct.

18 Q. First of all, are you able to bring us up to date in  
19 terms of numbers of children in foster care?

20 A. I am, yes.

21 As of end of September 2022, the number of children  
22 in foster care in Scottish Borders was 57. Eight of  
23 those were in continuing care.

24 Also, just for reference, the number of foster carer  
25 households was 41, which were equated to 69 individual

1 carers, obviously some of those being couples. So in  
2 essence there are in total the number of approved  
3 placements that we have is 61 and the occupation as of  
4 30 September was 93 per cent. So that's -- you know,  
5 the 57 out of the 61 are existing placements in the  
6 Borders.

7 Q. Are these all with Scottish Borders carers or with any  
8 carers from independent agencies?

9 A. Those figures relate to children who are with Scottish  
10 Borders carers. I can say that again at the end of  
11 September of this year there were seven young people in  
12 independent foster care provision, outwith Scottish  
13 Borders' Local Authority area, so those seven obviously  
14 add to the numbers in terms of looked-after children we  
15 have responsibility for, but there are seven who are  
16 placed outwith in agency or independent fostering at  
17 this time.

18 Q. Okay. So not only are those children placed with  
19 independent carers, those independent carers are living  
20 outwith the geographical area?

21 A. That's correct.

22 Q. Okay. Do you ever use independent carers who are based  
23 geographically within Scottish Borders or not?

24 A. If the needs of the child have been assessed and it  
25 identifies a particular skill set, for example, of

1 carers and they happen to be in the independent sector,  
2 our preference would always be for children who are from  
3 Scottish Borders to be placed in Scottish Borders if  
4 they require alternative care. And that's very much  
5 about taking a child-centred approach, recognising the  
6 importance of their community, their attachments, their  
7 networks that they have, even the geographic area is  
8 really important to our children and young people.

9 So where at all humanly possible, if there is  
10 an ability to place a child and it requires  
11 an independent foster placement, we would always look to  
12 try and do that in Scottish Borders in the first  
13 instance. Failing that, obviously we match need to the  
14 skill set of the foster carers that are available at  
15 that particular time.

16 Q. What about kinship care? Do those numbers exclude  
17 children in formal kinship care?

18 A. The numbers that I've given you do actually exclude the  
19 formal kinship care. In total, as things currently  
20 stand, Scottish Borders has 183 children who are looked  
21 after in total, 22 in continuing care. Obviously the  
22 number that are in kinship care is almost at a balance  
23 with -- I think it's just slightly below, now -- the  
24 number that we have in internal foster care. So I think  
25 the number is something in the region of 47 at the

1 moment who are in kinship care, but who have that  
2 status.

3 Q. Has there been an increase in the number of children who  
4 are placed in formal kinship care?

5 A. Yes, I think it would be fair to reflect that we had  
6 quite a significant increase in the uptake of kinship  
7 care at a particular point when the legislation was kind  
8 of going through or had been established. I think  
9 that's kind of dropped slightly, just relatively  
10 recently, but is again consistently being maintained at  
11 a reasonably high level in terms of the balance of young  
12 people who are in the Local Authority's care.

13 Q. I want to ask you some other questions arising from some  
14 answers within your response. I wonder if we can look  
15 on, please, to page 33. And towards the -- you're  
16 talking there about culture of the organisation and  
17 generally historic evidence shows a strong sense of the  
18 principle of welfare of children throughout.

19 Then you reflect:

20 "At certain points, however, the commitment to best  
21 practice in relation to the provision of childcare was,  
22 in retrospect, questionable".

23 You give an example from the early period that  
24 Berwickshire County Council had rejected the suggestion  
25 that a children's officer be appointed, that they

1 thought that person should have a joint role with adult  
2 support as well as responsibility for children. So  
3 that's one of the examples that you give?

4 A. Yes.

5 Q. You also talk about potentially residential care being  
6 favoured and then going down towards the bottom of this  
7 page it says:

8 "The late implementation of a specific fostering  
9 panel to meet Local Authority responsibilities in terms  
10 of the 1984 regulations is perhaps another indication  
11 where the culture and practice could have been better."

12 You refer back to an earlier answer, which I think  
13 we find at page 29 at (f). It says there:

14 "To meet the responsibilities in terms of the  
15 regulations, the panel was established in 1990."

16 It looks like it took five years after the  
17 regulations to establish the panel.

18 It says:

19 "Initially the social work committee proposed that  
20 the panel responsibilities continued to be carried out  
21 by the home-finding group ..."

22 A. (Witness nods)

23 Q. So from the research that was undertaken, do you know --  
24 was that the reason there why the panel wasn't set up  
25 straight away, that the council thought another body

1           could maybe cover their role?

2   A.   That is my understanding.  That's the rationale that we  
3       were able to identify from records.

4   Q.   Okay.  But I think you identify that as being a gap,  
5       I suppose?

6   A.   Yes.

7   Q.   If we can move on to page 45, please, this is at the top  
8       of the page, looking at again the earlier period and the  
9       early 1970s.  So when it was various county councils and  
10      you've noted there from the research in Selkirkshire's  
11      committee minutes:

12                "Until January 1973 there was no effective  
13      structured fostering system which existed in the area."

14   A.   (Witness nods)

15   Q.   Although I think -- well, you tell me from your  
16      researches: were you finding that children were being  
17      boarded out or put into foster care at that time?

18   A.   Yes.  I think the records clearly show that there was  
19      boarding out or fostering, as it's now known, taking  
20      place at that time.  I think the reflection is about  
21      the -- I suppose the governance that was there in  
22      relation to it.

23   Q.   Okay.  It then says:

24                "The ultimate extent of the development of the  
25      fostering service will depend on (1) the assessment of

1 individual children's needs and (2) the ability of the  
2 Priory Children's Home to provide more appropriate  
3 measures of care than has been the case hitherto. For  
4 proper assessment, it is essential to have an effective  
5 input of specialist skills; and sufficient time must be  
6 allowed for staff to make really valid assessments."

7 I think this might be connected to the point that  
8 you made that we saw a moment ago, that there seemed to  
9 be potentially a preference for residential care rather  
10 than looking to place children in foster care?

11 A. Yes, I think that's certainly our reflection or  
12 certainly my reflection is that there was a preference  
13 for residential care over foster care at that time and  
14 it was quite apparent in terms of some of the records in  
15 terms of people -- in terms of where they were being  
16 boarded out and one of the first options seemed to be  
17 residential care as opposed to any kind of  
18 community-based placement with foster care or indeed  
19 being boarded out. It very much seemed to be the  
20 preference to go for a residential setting.

21 Q. Perhaps what it's suggesting here is that children were  
22 being placed in the children's home rather than  
23 an individualised assessment of their needs being  
24 undertaken?

25 A. Yes.

1 Q. If we move on to page 46, please, you're addressing  
2 there various questions about policy in relation to  
3 various areas and you've been asked a question about  
4 policy in relation to children's views and it says here:

5 "There is no specific policy on the child's views,  
6 but there is an expectation that a child's views are  
7 sought at all stages of assessment, planning, in formal  
8 meetings and in ongoing intervention."

9 A. (Witness nods)

10 Q. A couple of things within that. One, is it just  
11 an expectation that the child's views are sought or is  
12 it a requirement?

13 A. Again, in the context of -- sorry, in the context of  
14 some of the information it was apparent that it was ...  
15 I suppose there was a policy or guidance in place.  
16 I suppose I can reflect that to what happens now, which  
17 is that the children and young people are very much at  
18 the centre of all the planning that takes place and  
19 we've changed and adapted I suppose a number of  
20 different ways in which we seek the views and the wishes  
21 of children and young people to ensure that they're at  
22 the centre of any of our considerations going forward.

23 An example of that would be we have an app called  
24 MOMO, which is Mind Of My Own, and crucially what that  
25 does is it's adaptable in terms of the age or stage of



1 the particular child or young person and crucially for  
2 me and my colleagues is that it gives the child or young  
3 person the opportunity to express their views without  
4 necessarily having to sit in a formal setting to do so.  
5 They can do that electronically.

6 I mentioned that it's adaptable to take on board the  
7 age and stage of the young person. Another thing that's  
8 really important is where there may be communication and  
9 additional support needs, for example, for young people,  
10 the app is adaptable to make sure that we can elicit the  
11 views from children who have communication issues, for  
12 example. That's just one way in which we're actually  
13 ensuring that the voice of the child is actually at the  
14 centre of all the planning that is taking place for  
15 them, recognising that formal meetings is a very  
16 difficult environment for a child or young person to go  
17 into.

18 Q. So there would be a combination of different ways  
19 I suppose in which you could take the views of a child.  
20 You can use the app, you can speak to them directly, you  
21 might meet them in different settings?

22 A. 100 per cent. We are keen to make sure that actually  
23 we're not seeing children in a single setting, that it's  
24 actually multiple settings, obviously being sensitive to  
25 the nature of the intervention with the child or young

1 person, but also being able to do that in a safe and  
2 secure way and very much about the relationship between  
3 the social worker and the child and that developing  
4 relationship and trusting relationship, making sure that  
5 that child has the opportunity to express their views  
6 and wishes, not only on that personal level with  
7 a social worker but, as I say, there are other ways --  
8 I don't -- just to be clear, the Mind Of My Own is not  
9 the only method we use, you're absolutely correct. It's  
10 mainly relationship based and making sure that actually  
11 that child has the opportunity to be able to express  
12 their views.

13 And, again, it might not be the social worker that  
14 is the best person to meet with that child or young  
15 person. It may be someone that the child identifies as  
16 someone that they trust, that we make sure that we make  
17 them available so that at all points the child's views  
18 and the child's wishes are taken into consideration.

19 Q. If we move on to page 48 and you're addressing here  
20 adherence in practice to the various policies and  
21 procedures that were referred to in the earlier part of  
22 the question. As a preamble to this you say at the very  
23 bottom of the page:

24 "There is little evidence or information on formal  
25 policy or practice guidance in relation to foster care

1 prior to the establishment of the Family Placement Team  
2 in 1992. This makes answering the following questions  
3 from a historic perspective impossible. Therefore  
4 unless otherwise stated, the list below reflects current  
5 practice."

6 A. Correct.

7 Q. When you say "current practice", do you mean from 1992  
8 up to date or do you mean actually -- well, in 2020,  
9 when you were writing this?

10 A. It was probably referenced to 2020, to be perfectly  
11 honest with you. I think the significant improvements  
12 since 1992 are evident. However, I think the practice,  
13 as with all things, evolves and changes over time and  
14 I -- on reflection I think what we were actually  
15 eliciting there was that it was about the 2020 practice,  
16 but it started in 1992 and it doesn't really make a lot  
17 of sense, I appreciate, but improvements started in 1992  
18 up to -- but we reflected that as of today, like 2020  
19 practice.

20 Q. If we go over the page to page 49 when you're asked:

21 "Did the Local Authority adhere in practice to its  
22 policy and procedures in relation to provision of foster  
23 care?"

24 The answer is:

25 "Yes, with generally minor exceptions due to

1 particular circumstances or staff oversight. From our  
2 review of cases, these did not knowingly result in  
3 a failure to protect children."

4 You repeat this answer I think to most of the  
5 questions about adherence and practice?

6 A. Yes.

7 Q. So I want to understand it. When you say there were  
8 generally -- well, how did you find out that there were  
9 minor exceptions? How did you make that assessment?

10 A. So it's where there was some references to, for example,  
11 where the then director of -- whoever the person was  
12 that was the agency decision maker at that time was  
13 asked for example to approve an over approval in terms  
14 of like a foster carer going over the number of  
15 registered placements, if that makes sense.

16 Again, under exceptional circumstances that could  
17 have been considered and would have been reflected in  
18 the numbers of children that were in the care of  
19 a foster carer at any given time.

20 Also, for example, there may have been a position  
21 where the needs of a child meant that they had continued  
22 their respite beyond what was planned for the respite,  
23 most of which would be reflected in individual child's  
24 files, in particular. So that's what we're meaning by  
25 that reference to the policies and procedures were

1       adhered to and that element about circumstances or  
2       exceptions to that would be things that were actually  
3       about what was in the benefit of the child or young  
4       person, whether that be indeed going over numbers in  
5       terms of the registered number of placements for  
6       a foster placement in the short term or indeed  
7       an extension of, for example, planned respite, because  
8       that's what was assessed as necessary for the child.

9               So technically speaking was outwith the parameters  
10       of the policy at that time, but would be done because of  
11       the -- in the interests of the child as an exception.

12   LADY SMITH: When you say that time, is this looking back to  
13       1992 or is it just what was going on in 2020?

14   A. Sorry, that's back to 1992. Sorry.

15   LADY SMITH: Okay, thank you.

16   MS INNES: You mentioned the Director of Social Work or the  
17       agency decision maker being asked to review a matter.  
18       What was the source of your information? Did you look  
19       at a selection of children's files, for example, or were  
20       you looking at minutes?

21   A. We generally were looking at individual children's files  
22       and again it was about reflecting where there may have  
23       been exceptions and it's not that we went through every  
24       single child's case, just to be clear. What we did do  
25       is we were able to identify where there may be minor

1 exceptions -- the word "minor" is not particularly  
2 helpful in this.

3 That where we applied a degree -- where a degree of  
4 discretion was applied in the interests of the child in  
5 terms of the policy and procedure, making sure ... and  
6 again it was just a sort of general reflection that  
7 these are the types of situations that had happened that  
8 we knew where children, for example, had been placed  
9 over and above the numbers registered for a foster  
10 placement. So that led back to obviously a decision of  
11 the agency decision maker at that point: is it in the  
12 short-term interests of the child?

13 Q. Did you find that -- did you select individual  
14 children's files at random and read them or did you look  
15 at minutes of review meetings of panels and then look at  
16 the files from there?

17 A. It was mainly about where in terms of some of the  
18 fostering records, for example, where a child had been  
19 placed over the numbers, that's where we were able to  
20 recognise that that was an exception that we would do.  
21 We didn't go into specific -- we didn't drill into  
22 specific cases, if that makes sense. It was just to try  
23 and give a flavour of where we may have looked at --  
24 there may have been an exception to the policies and  
25 procedures at a particular juncture.

1 Q. Okay.

2 LADY SMITH: Why did you pick that example as opposed to  
3 something else that may have happened?

4 A. It was just an example that we -- that I was basically  
5 trying to explain, that going over numbers could be  
6 an example of where we have gone beyond the policy and  
7 procedure at that time.

8 MS INNES: It also refers to staff oversight.

9 A. Yes.

10 Q. Do you know what that --

11 A. Again the wording of that, in essence that it would be  
12 done with staff who were involved having full oversight  
13 of any exception to the policy and procedure at that  
14 time.

15 Q. I see.

16 You say that from your review of cases, these did  
17 not knowingly result in a failure to protect children.  
18 What do you mean "not knowingly"?

19 A. Well, it's that -- I suppose what we were trying to  
20 express there was that where we have not adhered to the  
21 policy or procedure at that particular time under  
22 exceptional circumstances was doing so in the best  
23 interests of the child.

24 LADY SMITH: I'm not sure I follow that. Let me ask you  
25 this: what did you think you were being asked?

1 A. I think it was: have we ever gone above and beyond the  
2 policies and procedures at any given time? And what we  
3 were trying to reflect was that there are occasions  
4 where we would go beyond --

5 LADY SMITH: Sorry to stop you, Stuart, you've told me  
6 that -- maybe half a dozen times now -- I've got that  
7 point. It's when we're on the second line there, that  
8 you've added:

9 "From our review, these did not knowingly result in  
10 a failure to protect children."

11 What is it you're trying to say there? I have to  
12 say, it leaves me confused.

13 A. Okay, apologies for that. I think it's actually a very  
14 poor choice of wording, if I'm totally honest with you.

15 LADY SMITH: Yes.

16 A. I think given the context of the Inquiry we were trying  
17 to say that at no point were children put at risk in any  
18 way in relation to that.

19 LADY SMITH: Oh, how can you say that?

20 A. Well, again because the circumstances of each case was  
21 looked at in the context of minor exceptions to the  
22 policies and procedures with staff oversight.

23 LADY SMITH: I think we're going round in circles here,  
24 Stuart, actually.

25 A. We are, apologies.



1 LADY SMITH: Let me be blunt. It sounds as though you're  
2 trying to cover your back and make sure that it doesn't  
3 read as though you're accepting there was some degree of  
4 fault on the part of the Local Authority. That may not  
5 be what you meant, but it reads a little bit like that.

6 A. My apologies, that's certainly not how --

7 LADY SMITH: Okay.

8 A. -- I meant it, if that makes sense.

9 LADY SMITH: Okay, well, thank you for that.

10 Maybe we can just ignore that line?

11 A. Okay.

12 LADY SMITH: Because what we're really interested in is  
13 discovering whether there were systems, whether there  
14 were policies, whether they were always adhered to, and  
15 if they weren't, how come? How did that happen? Does  
16 that help you?

17 A. Yes.

18 LADY SMITH: Thank you.

19 Ms Innes.

20 MS INNES: Thank you, my Lady.

21 Can I move on to page 53, where you've been asked  
22 about a policy in relation to discipline.

23 So page 53 and it's at -- sorry. Yes, discipline.

24 You say there:

25 "There is no specific policy or guidance in terms of

1 discipline (other than that corporal punishment of  
2 children in foster care is forbidden). The role of the  
3 supervising social worker is key in supporting children  
4 in foster placement with challenging behaviour."

5 There's a reference to the foster carer handbook,  
6 saying that the role of the Family Placement Team social  
7 worker is:

8 "... during supervision sessions the social worker  
9 will encourage you to reflect on any issues being  
10 presented in order to discuss alternative understandings  
11 and/or responses to the challenges you are presented  
12 with in your role as a foster carer and to identify any  
13 additional support or resources that could promote the  
14 well-being of the children in your care and other  
15 household members."

16 Is it right that there's no specific policy or  
17 guidance about discipline of children in foster care?

18 A. No, there was significant levels of training and  
19 development that takes place as well as reflections  
20 about positive behaviour and how to manage behaviour in  
21 foster care.

22 I suppose what's referenced there is that there's no  
23 specific policy or guidance on its own, it's embedded  
24 within other policy and guidance that actually is issued  
25 and what's mentioned there is the foster carer handbook,

1           which is quite significant in terms of how it covers,  
2           you know, positive behavioural working between foster  
3           carers and children and young people in their care.

4           So I suppose what's referenced there is that there's  
5           no specific element or policy procedure about  
6           discipline, but it is contained within other policies  
7           and procedures that foster carers actually have and  
8           adhere to.

9   LADY SMITH:  When was the foster carer handbook first  
10           published for the Borders?

11   A.  I don't think I can answer that, to be perfectly honest  
12           with you.  I would have to look back at the record.

13   LADY SMITH:  Okay.  Thank you.

14   MS INNES:  Is it something that they've had since you've  
15           been involved in --

16   A.  Yes.

17   Q.  Since you've been employed?

18   A.  Yes.

19   Q.  Can I move on, please, to page 68 where you're asked  
20           about complaints policy.  You tell us at the bottom of  
21           the page about the Scottish Borders Council complaints  
22           policy, so a corporate procedure for complaints.

23   A.  Yes.

24   Q.  Then if we go over the page there's also reference to  
25           an allegation against foster carers section in the child

1 protection procedures?

2 A. Yes.

3 Q. So there's reference to that.

4 Then at the bottom of the page there's a question:

5 "What do the policies and/or procedures set out on  
6 the following: complaints by children."

7 The answer to the part about corporate complaints  
8 begins by saying:

9 "The corporate complaints procedure does not  
10 differentiate between children and adults. Children  
11 have the same rights as adults in making a complaint."

12 I can see that obviously they should have the same  
13 rights, but the question from the child's perspective  
14 is: is it accessible to children?

15 A. So the formal council complaints process, yeah, I take  
16 your point. I suppose what I would be saying is that  
17 the children and young people are afforded any  
18 opportunity that may be required to actually, if they're  
19 not happy, if they're uncomfortable, if they are  
20 concerned about anything, through a myriad of different  
21 people and one of the key factors that we have in  
22 practice is, for example, the meetings around the child  
23 which obviously is embedded or enshrined as part of our  
24 approach for getting it right for every child, so there  
25 are multiple opportunities for children to be able to

1 make complaints.

2 What this references to is the specific corporate  
3 complaints policy for Scottish Borders Council, but any  
4 concern that a child has can be taken as a complaint  
5 through a multitude of different -- any member of the  
6 team around the child, teaching staff, anybody could  
7 support that child in terms of making a complaint.

8 I think it's been too literally responded to in the  
9 terms of the council's formal corporate complaints  
10 process.

11 Q. Okay.

12 If we can move on to page 76, please, and you're  
13 talking towards the bottom of the page about practice in  
14 relation to internal investigations. If we look at the  
15 very last answer on this page, which is about the  
16 approach to and process of internal investigations, and  
17 it says:

18 "It was identified that the use of the disruption  
19 policy and process was not used in all cases where it  
20 was appropriate. This resulted in review and reissuing  
21 of the policy in 2016 (the previous iteration) and  
22 a greater focus on ensuring disruption process is  
23 followed where appropriate."

24 First of all, what does the disruption policy cover?  
25 What is it about?

1 A. In essence the disruption policy is where a placement  
2 has broken down and it's to examine the reasons why  
3 that's happened, the lead-up to it and any subsequent  
4 learning that may come from that.

5 It also serves as a learning opportunity in terms  
6 of -- a reflective learning opportunity, in terms of  
7 things that should be done differently that may have  
8 mitigated or prevented that from happening.

9 Q. You say that it was identified that it wasn't being used  
10 in all cases where it was appropriate. That's not  
11 something you found out while you were doing the Section  
12 21 notice, it appears that this is something that was  
13 recognised prior to 2016?

14 A. (Witness nods)

15 Q. What's your understanding of why it wasn't being used in  
16 all cases?

17 A. My understanding at that particular point was that there  
18 had been a number of disruptions to children's  
19 placements that had not gone through the formal or the  
20 proper disruption process, where that opportunity for  
21 learning and reflection had effectively not taken place.

22 That was picked up by senior managers at that  
23 particular point, which led to them identifying the gap  
24 and reissuing the guidance to ensure that all staff were  
25 aware of the need to conduct a disruption meeting so

1           that that -- not just that learning, but it's also about  
2           again focusing on what's happened for that particular  
3           child and obviously recognising the importance of that  
4           learning but also that reflection in terms of child's  
5           files going forward.

6           So my understanding is that it was reissued by the  
7           senior manager at that point, because they recognised  
8           that it was not being used each time there was  
9           a disruption to a placement.

10        Q. I suppose it might also be important for the foster  
11        carers' file --

12        A. (Witness nods)

13        Q. -- so that there's a clear record of why it is the  
14        placement has come to an end and people's reflections on  
15        that?

16        A. Absolutely. It covers a multitude of things, not only  
17        about the child or young person but also, as you say,  
18        about the foster carer themselves and the fostering  
19        services in the wider context.

20        Q. If we can move on to page 84 and you're talking here  
21        about recording and how case files are kept. I think  
22        you have an electronic case file system you tell us  
23        about called Mosaic?

24        A. (Witness nods)

25        Q. At (iv) there's a heading, "Complaints" and it says

1           there:

2           "Complaints against foster carers are recorded on  
3           their individual file, recorded centrally (and retained  
4           for three years) and sent to the Care Inspectorate as  
5           notifiable incidents."

6           We can understand the part about them being recorded  
7           on the individual file and we can understand the holding  
8           of a central complaints log. Is it the central log  
9           that's only retained for three years?

10    A. That's -- that's what it states, but that's not my  
11       understanding actually, so my apologies -- I would need  
12       to again check that, because that doesn't -- that's not  
13       my understanding, that it's the log that is retained  
14       only for three years. The log stays, is my  
15       understanding.

16           So I think we've made an error in terms of that part  
17       of the submission.

18    Q. Okay. It's because I wondered if, for example, a foster  
19       carer were to, you know, apply to another Local  
20       Authority, you could obviously look at their file, but  
21       if there was a central log that would seem to be a first  
22       port of call?

23    A. Yeah. I think what I would say is if a foster carer --  
24       if there had been an incident in terms of a complaint,  
25       it would also be recorded in the foster carer's file, if



1 that makes sense, as well as on this central log.

2 The reality would be that if any foster carer then  
3 applied to, for example, a neighbouring authority, that  
4 would still be retained -- that information about that  
5 previous complaint would be available on the electronic  
6 system.

7 Q. Provided that you still have the foster carer's file?

8 A. Yeah. The retention of the foster carer's file on the  
9 electronic recording system would be significantly  
10 longer than what's stated there.

11 Q. Do you know how long it is retained for as a matter of  
12 practice?

13 A. It will ... I wouldn't be able -- I couldn't put my hand  
14 on it right away to be honest with you, but it will be  
15 quite a significant period of time.

16 Q. Okay. I mean I think we've heard that there was  
17 a retention period of 25 years from de-registration or  
18 from last placement?

19 A. Yeah. I didn't want to kind of speculate, but 25 years  
20 was the number that was in my head, yes.

21 Q. I just wondered whether there was any different practice  
22 to that.

23 A. (Witness shakes head)

24 Q. Okay. Right, I'd like to move on to the next page, and  
25 your Part D response there. In the preamble you say:

1           "Individual incidents of abuse and alleged abuse  
2           discussed in Part D are cases from 1990 to  
3           17 December 2014 only. This is due to the limited  
4           systematic recording of incidents and allegations of  
5           abuse prior to this date. The individual incidents are  
6           primarily sourced from the fostering panel minutes and  
7           cross-referenced with foster carer and children's  
8           files."

9           Am I right in taking from that that in order to  
10          respond to the Section 21 notice you started by  
11          reviewing fostering panel minutes; is that right?

12        A. Yeah, it was -- it was quite extensive in terms of  
13          fostering panel minutes, but in terms of looking at any  
14          allegations of abuse obviously going all the way back  
15          to -- we had officers across in the archives pulling any  
16          information that pertained to fostering, boarding out  
17          from 1930 onwards as well as a senior officer that was  
18          present to basically again go through any  
19          documentation -- ledger books is the only way I can  
20          describe what was found. But it would have been  
21          a cross-reference of a variety of different things,  
22          including, as you mention, minutes of panel meetings as  
23          well as a number of other sources.

24        Q. Okay. Could we look, please, at SBC-000000030. This is  
25          answer to follow-up questions posed by the Inquiry and

1 we were asking there about that part of the Part D that  
2 I've just referred to. We asked there:

3 "Are we right in understanding that you identified  
4 the incidents and allegations from fostering panel  
5 minutes and then reviewed the connected foster carer and  
6 children's files? If not, please explain the approach.  
7 Did you carry out an audit either by looking at foster  
8 carer files or children's files over the relevant  
9 period, whether by way of sampling or otherwise? If you  
10 did that, can you please tell us how many files you  
11 reviewed?"

12 The answer to that is:

13 "The process used was as you describe -- the  
14 incidents are primarily sourced from fostering panel  
15 minutes and cross-referenced with foster carer and  
16 children's files. Throughout this period, significant  
17 issues relating to the care of children in foster care  
18 were reported to the fostering panel and minuted.  
19 Cross-referencing with children's files enabled further  
20 examination of issues recorded."

21 That looks as though the primary source was the  
22 minutes?

23 A. Sure, yes.

24 Q. And then from the minutes you would identify -- you  
25 would go and look at the relevant foster carer file?

1 A. (Witness nods)

2 Q. And then you would identify the children that they cared  
3 for and read their files?

4 A. Yes.

5 Q. Okay, so am I right in thinking that it essentially all  
6 depends on what's in the fostering panel minutes?

7 A. Substantively, yes. It's in terms of that recording  
8 process in terms of being able to identify where those  
9 incidents have been recorded, that would be the primary  
10 source, yes.

11 Q. So if the fostering panel hadn't been told that there  
12 had been an allegation of abuse, it wouldn't have shown  
13 up in the minutes?

14 A. No.

15 Q. And you wouldn't have looked at the files?

16 A. No.

17 Q. If a child hadn't reported abuse at all at the time,  
18 that obviously wouldn't be there.

19 I suppose the other possibility is that maybe the  
20 fostering panel minutes didn't refer to any allegation  
21 of abuse if there were -- well, perhaps you talked  
22 earlier about disruption meetings not happening.

23 A. Mm.

24 Q. And if that hadn't happened, would that not affect the  
25 recording of an allegation?

1 A. Potentially, yes. Yeah. If -- again, it's the --  
2 I would be confident that if it was discussed at a panel  
3 that it would be reflected in the minute of a panel, but  
4 ultimately, as you say, if there had not been any  
5 reflection or any process that would highlight that to  
6 a fostering panel, for example, it would not necessarily  
7 have actually been discussed, yes.

8 Q. I suppose the other issue is that if somebody's resigned  
9 as a foster carer or been de-registered and  
10 an allegation is made later on, then there would be no  
11 minute because there would be no fostering panel to go  
12 to in relation to that allegation?

13 A. Not in relation to that -- yeah, unless of course that  
14 was minuted at the point the person was de-registered,  
15 I suppose.

16 Q. Yes. I mean I think when you go on in your Part D, for  
17 example, you found that most of the allegations that you  
18 identified had been made at the time?

19 A. Yes.

20 Q. But that might be a product of the approach that you  
21 took?

22 A. Yes.

23 Q. Okay.

24 A. No, I accept that, yeah.

25 Q. Right. If we can go back, please, to SBC-000000015 and

1 to page 85. If we scroll down to look at the extent of  
2 the abuse, at paragraph 5.2(a):

3 "What is the Local Authority's assessment of the  
4 scale and extent of abuse of children in foster care?"

5 It says there:

6 "Scottish Borders Council believe the scale and  
7 extent of abuse of children in foster care to be  
8 minimal. It does not detract however from the very  
9 serious nature of any incident of abuse, particularly  
10 when it has occurred within a foster care setting."

11 I think you've maybe reflected on the use of  
12 language there?

13 A. Yeah, the use of language is fundamentally wrong. As  
14 I say, mentioned later, it's not about detracting at all  
15 in terms of the impact on children and young people of  
16 having experienced abuse in foster care at all. It's  
17 a very poor choice of wording and if I could change it,  
18 I would, to be perfectly honest.

19 Q. You then talk about the basis of your assessment, which  
20 is the review that you've carried out as you've  
21 described. Then at (c):

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

24 You say that you discovered eight cases, eight  
25 individuals:

1 "Eight individuals but in two cases, concerns were  
2 around general care, discipline and inappropriate  
3 chastisement and are likely to have involved a number of  
4 children."

5 So that would be eight foster carers but a number of  
6 children affected --

7 A. Yes.

8 Q. -- by that?

9 Then over the page -- oh, sorry, there's a question  
10 at the bottom of the last page:

11 "Against how many foster carers have the complaints  
12 been made?"

13 Then it says:

14 "Ten carer households, 14 individual carers."

15 I didn't quite understand the -- at (c) it talks  
16 about complaints being made against eight individuals.

17 But then over the page it talks about 10 carers  
18 households?

19 LADY SMITH: Unless the individuals in (c) are meant to  
20 refer to children? I follow what Ms Innes is saying and  
21 I did a double take on that and I wondered if that was  
22 what was meant?

23 A. I think the eight in the previous, in (c), was actually  
24 referring to children.

25 LADY SMITH: So eight children identified as being --

1 A. Yes.

2 LADY SMITH: -- children who had experienced abuse.

3 A. Abuse.

4 LADY SMITH: But the point also made, on the information  
5 available, it seems likely that other children --

6 A. Yes.

7 LADY SMITH: -- were abused as well as the eight?

8 A. Yes.

9 LADY SMITH: So we don't need to worry about that being  
10 a number attributed to abusive foster carers. We go to  
11 the next answer for that, is that right?

12 A. Yes.

13 LADY SMITH: Thank you.

14 MS INNES: You then go on at (e) to say:

15 "One foster carer has been convicted of the abuse of  
16 children."

17 We'll come back to him later.

18 Then at (f) you say that out of how many foster  
19 carers have been found by the Local Authority to have  
20 abused children, seven carer households, nine individual  
21 carers.

22 A. (Witness nods)

23 Q. I suppose that might look in comparison to some other  
24 evidence that we've heard from other people's  
25 assessments, that's quite a high proportion of the Local



1 Authority making a finding that abuse has happened out  
2 of the number of complaints that they have identified,  
3 but I suppose that might be a product of the methodology  
4 as well?

5 A. Yes.

6 Q. If it's at the stage of the panel, a decision is having  
7 to be made about that abuse essentially.

8 A. Yes.

9 MS INNES: I see.

10 Right, it's nearly 3 o'clock my Lady and I'm going  
11 to move on to look at some other matters.

12 LADY SMITH: If that would work for you, Stuart, we'll take  
13 a short break now and then get back to your evidence  
14 after that.

15 A. No problem.

16 (3.00 pm)

17 (A short break)

18 (3.11 pm)

19 LADY SMITH: Are you ready for us to carry on, Stuart?

20 A. Yes, I am, thank you.

21 LADY SMITH: Thank you.

22 Ms Innes.

23 MS INNES: Thank you, my Lady.

24 I want to turn to look at the conviction that is  
25 mentioned in your response and it's at JUS-000000042 and

1       it will come up on the screen in front of you. We can  
2       see that this is a conviction from Jedburgh Sheriff  
3       Court. It was in fact in Duns Sheriff Court at the  
4       time, and the date of the conviction was 20 April 2011  
5       and he was sentenced in June 2011.

6             There are four charges of sexual offences.  
7       Your Ladyship will see that there are various periods of  
8       imprisonment, a total period of imprisonment of  
9       52 months.

10   LADY SMITH: Yes.

11   MS INNES: If we go on to page 3, we can see the charges and  
12       it can be seen that the first charge relates to a person  
13       over -- sorry, I'll start again.

14             The foster carer was in a position of trust and that  
15       is the context of the charge, obviously, and it says  
16       that he had sexual intercourse with a person who was  
17       a child in foster care. She was 17 at the time and he  
18       was 33.

19             There is then another charge, it's over the same  
20       period in respect of the same complainer, but it's  
21       section 3(1) (b) as opposed to section 3(1) (a) of the  
22       2000 Act.

23             Then a similar pattern is followed in relation to  
24       the other complainer. That complainer was 16 at the  
25       time in charge 3. It was in between January and

1 March 2010. Then over the page we see the charge in  
2 respect of that complainer under section 3(1)(b) and  
3 again obviously that child was in foster care.

4 If we can move on to page 10 of this document, we  
5 can see that this -- sorry, it starts at page 9. There  
6 is a report for the Parole Board by Sheriff Corke. We  
7 can see that the report was prepared because the  
8 offender had been given a custodial sentence of more  
9 than four years and it's noted at paragraph 2 that he  
10 pled guilty at the first calling and sentence was  
11 deferred.

12 If we can go on to page 11 --

13 LADY SMITH: That tells me the likelihood is that he  
14 received a 25 per cent discount on his sentence.

15 MS INNES: Yes.

16 This is the first paragraph that we see on page 11  
17 is reference to what was said in mitigation, I think:

18 "He had been at a low ebb psychologically and  
19 emotionally, there was an element of denial in the  
20 psychological report. He had been anxious and low.  
21 However non-co-operation was not the common theme.  
22 There was no real psychological issue. He was deeply  
23 ashamed of his actions, which he could not explain. He  
24 had a difficult childhood and significant violence from  
25 his stepbrothers. He would never be a foster carer

1 again and was at low risk of re-offending. There were  
2 protective factors and there was probation as  
3 an alternative to custody. He acknowledged that it was  
4 a significant breach of trust. Both complainers had  
5 been of age and there was no issue of consent and no  
6 previous offences. He was entitled to full credit for  
7 his pleas. These were [it was submitted on his behalf]  
8 not the worst offences of their kind. He had a level of  
9 insight. He had let his partner, his family and the  
10 complainers down. He deeply regretted his actions and  
11 was naturally anxious."

12 Then your Ladyship will see at paragraph 10 that the  
13 sheriff says that he:

14 "... regarded the behaviour in these charges as  
15 gross breaches of trust. There was no realistic  
16 alternative to imprisonment and not to make the  
17 sentences consecutive would fail to mark the different  
18 offences or to respect the suffering of the individuals  
19 concerned. Concurrent sentences would encourage  
20 offenders to think that they could do more harm for the  
21 same sentence."

22 Then he says:

23 "The offences came about because the offender and  
24 [REDACTED] took care of foster children."

25 It notes:

1           "The complainer in charges 1 and 2 had lived with  
2           them as a foster child for seven years and was 16/17 at  
3           the dates of the offences, meaning that she had lived in  
4           family with him since the age of 9 or 10. She had been  
5           placed because she was a previous victim of sexual  
6           abuse, of which the offender was aware."

7           Then at the top of the next page, at paragraph 12:

8           "The other complainer was a similar age, had also  
9           been placed in foster care because of sexual abuse. She  
10          had learning difficulties."

11          Then it says:

12          "The sordid nature of the offences can be seen from  
13          the face of the charges, the transcript and the  
14          narrative. The 'relationship' [in inverted commas] was  
15          initiated in each case by the offender and is just the  
16          sort of predatory behaviour by a person in a position of  
17          trust that the legislation was designed to address,  
18          given that each was above the age of consent. Had they  
19          not been consensual, it would have been in the High  
20          Court, as the offender's solicitor pointed out."

21          He goes on to talk at paragraph 14 about:

22          "The offending behaviour going on furtively in the  
23          victims' home and without the knowledge of [REDACTED]  
24          [REDACTED]."

25          He notes at the end of that paragraph:

1           "The offender denied his behaviour at first and  
2           didn't report any allegation to Social Services as he  
3           should have done."

4           It's noted that he was a trained foster carer, twice  
5           the age of his victims. It had a devastating impact  
6           upon the girls, as per the victim impact statements, and  
7           he notes that the offender had no previous convictions  
8           but he says that's not unexpected in a foster carer.

9           That sets out some of the background and also the  
10          Sheriff's thinking in relation to the imposition of the  
11          custodial sentence.

12          Stuart, I know that you're aware of this conviction  
13          and one of the questions that the Inquiry raised with  
14          you following receipt of the Section 21 response was  
15          whether there had been any review, learning review,  
16          significant case review, anything like that following  
17          upon the conviction.

18    A.   (Witness nods)

19    Q.   I think your response was that it was understood that  
20          there was a disruption meeting but no wider review; is  
21          that right?

22    A.   That's correct. I have looked -- as you mention, I was  
23          involved in this case in that I was the team leader for  
24          the locality team that covered that particular area and  
25          indeed two of the young people in that placement had

1 social workers allocated from my team that I managed.

2 I have looked back in the records. Obviously the  
3 disruption meeting did take place. I attended that  
4 disruption meeting. I have looked to see if there was  
5 any further examination of what had taken place by way  
6 of significant case review or anything to that effect  
7 and there is -- I can't find anything other than the  
8 disruption meeting is what I found.

9 Q. Just on the disruption meeting, your solicitor has  
10 provided a copy of the minutes of the disruption  
11 meeting. It's not in the bundle, so not available  
12 electronically, but copies of the disruption meeting  
13 have been made available and I think one of them is in  
14 front of you, hopefully, it should be on the desk under  
15 the folder, I think.

16 A. Oh, yes. Yes.

17 Q. We can see that this took place on 28 May 2010 at 2 pm  
18 and you were one of the people present, as you say.

19 A. That's correct.

20 Q. This was obviously after the -- I assume after the  
21 allegations had been made but before the conviction that  
22 we've just looked at?

23 A. That's correct.

24 Q. We can see that it's said that the purpose was to  
25 discuss the circumstances of the young people and to

1       ascertain whether any of them could return to their  
2       placement in the near future. It notes that at the time  
3       there were four young people in placement with these  
4       carers.

5     A. That's correct.

6     Q. If we look on to the next page, under "Recent events",  
7       in the first paragraph you note that police  
8       investigations are ongoing so you can't disclose full  
9       details of the current situation.

10        You say how it had become known, so one of the young  
11       people who was in placement had told their son's  
12       girlfriend --

13    A. Correct.

14    Q. -- that she was in a sexual relationship with the foster  
15       carer.

16    A. That's correct.

17    Q. Did the son's girlfriend then do something about it?

18    A. Yes, she mentioned it to the allocated social worker for  
19       one of the young people during a visit.

20    Q. Okay. As a result of that were child protection  
21       procedures then implemented?

22    A. Implemented and mitigated, yes, absolutely.

23    Q. Were the young people who were in placement removed from  
24       the care of Mr Thomson?

25    A. They were removed with immediate effect, yes.



1 Q. We saw that one of the purposes of the meeting was to  
2 consider whether they could return to their placement.  
3 What was the outcome of that discussion?  
4 A. The outcome was they would not be returning to the care  
5 of that placement.  
6 Q. Okay. We can see, I think, that the minute goes on to  
7 talk about the circumstances of the young people.  
8 I think for example one of the issues discussed is the  
9 fact that one of the young people has learning  
10 disabilities?  
11 A. That's correct.  
12 Q. As was highlighted in the Sheriff's report. And how she  
13 might be supported, I think.  
14 A. (Witness nods)  
15 Q. Beyond that, I don't know whether you can point us to  
16 anything in the minute that you're aware of, Stuart,  
17 that indicates sort of wider learning or --  
18 A. The -- sorry. Yeah, in terms of the wider learning,  
19 this obviously was a disruption meeting which was  
20 focusing on the immediacy of the needs of those  
21 children.  
22 I should also just reflect that one of the other  
23 considerations to minimise the disruption to the  
24 children is for at that point the alleged perpetrator,  
25 at that particular point, was able to leave the

1 household by a way of keeping some degree of normality  
2 for the children. That was ruled out quite quickly.  
3 It's just to reflect that that was also considered to  
4 make sure that we were remaining child-centred.

5 But back to your -- sorry, back to your question, in  
6 relation to -- sorry, can you reframe your question or  
7 ask me the question again, please, sorry?

8 Q. This disruption minute, are you aware if it contains  
9 anything about, you know, wider learning or lessons for  
10 practice?

11 A. It doesn't identify it specifically in this particular  
12 disruption minute, but there were certain actions that  
13 were -- or certain issues that were identified in  
14 relation to the nature of visits and opportunities for  
15 young people to be able to speak to their social worker.

16 In addition to that, one of the things that happened  
17 was the allocated social worker and the social worker  
18 for the foster carer were at times ... for example if  
19 the allocated foster -- the allocated social worker for  
20 the foster carer was going out to do a visit, they would  
21 say that that was the statutory visit for the child as  
22 well at the same time, so almost doubling up, if that  
23 makes sense. That practice was stopped with immediate  
24 effect on the back of that learning.

25 Q. Okay. So that's the disruption minute, and, as you say,

1           beyond that there were no further reviews or --

2   A. I'm unable to find anything from our -- whether it was

3       discussed in terms of significant case review or

4       considered. I couldn't find any record of that.

5   LADY SMITH: If we just spell out why the practice of one

6       social worker going out and regarding it as a visit both

7       for the foster carers and for the children?

8   A. Okay.

9   LADY SMITH: Tell me what -- I think I know what your answer

10       is, but tell me what you identified was wrong about

11       that.

12   A. We were identifying that actually it confuses the

13       boundaries and the purpose of that social worker's

14       intervention. Having them -- just because it's a social

15       worker, the roles and functions are very distinct and

16       very different, and making sure that actually the

17       relationship between the child and their social worker

18       is protected and very clear that that's about the needs

19       of the child as opposed to the needs of the carer.

20   LADY SMITH: Does it also mean that the person who should be

21       focusing on the needs of the child may be building too

22       close a relationship with a foster carer who, as it

23       turns out, is actually an abuser?

24   A. Indeed, yes.

25   LADY SMITH: And it may cloud their vision?

1 A. Absolutely. And that independence in actually being  
2 able to look at it through a different lens in terms of  
3 actually the needs of the child being paramount, yes.

4 LADY SMITH: Thank you.

5 MS INNES: I'd like to move on and ask you to look at  
6 another document that you provided to the Inquiry.

7 That's at SBC-000000025. This is in relation to the  
8 de-registration of a carer at the beginning of 2014.

9 If we can look on to page 2 of this, we see the  
10 report by the supervising social worker for the panel.  
11 If we look into the first paragraph it says that the  
12 recommendation is that this person be de-registered as  
13 a foster carer. The recommendation had arisen partly  
14 due to her submitting a month's notice to resign. It  
15 says dated from 17 January 2013, but I think given that  
16 the panel was on 11 February 2014, do you think that's  
17 perhaps a typo?

18 A. I think it's a typo, yes.

19 Q. She'd perhaps given a month's notice to resign dated  
20 17 January 2014?

21 A. (Witness nods)

22 Q. The social worker says:

23 "However, prior to the carer handing in her  
24 resignation, my recommendation for the panel was that  
25 she be de-registered ..."

1 A. (Witness nods)

2 Q. If a foster carer does that, they know that the  
3 recommendation is that they're going to be de-registered  
4 and they resign, does the panel still go ahead and  
5 consider the circumstances?

6 A. Yes, the panel still goes ahead and makes  
7 a determination in terms of the registration.

8 Q. Okay. If we go on to page 3, at the top of the page the  
9 social worker says:

10 "As a result of these concerns I produced a report  
11 for the panel in which my recommendation was for  
12 de-registration. In addition to my report and in line  
13 with practice guidance, an independent report was  
14 requested from a team leader from another locality due  
15 to concerns regarding the number of concerns and  
16 allegations relating to the foster carer's practice."

17 It then notes:

18 "This report recommended that no children should be  
19 placed with her unless she undertook training in the  
20 specific areas highlighted and she was then able to  
21 demonstrate that she had an in-depth understanding of  
22 the concerns raised. If she was unable to do that, then  
23 she would be de-registered."

24 Does that remain a procedure that if there's  
25 a recommendation that a carer be de-registered,

1 an independent -- well, an independent report from  
2 somebody else within the Local Authority --

3 A. Yes, generally, absolutely. And again it's about that  
4 impartiality and that ability to look through it from  
5 a different perspective.

6 Q. Here there were concerns regarding the number of  
7 concerns and allegations relating to this foster carer's  
8 practice. What were the nature of those concerns? Was  
9 it the fact that there were so many of them that they  
10 had a cumulative effect?

11 A. I think it was about quality of care, lack of care.  
12 I would put the context of neglectful behaviour in  
13 there. Children being unmonitored and basically  
14 bumps -- things happening and specifically -- I don't  
15 want to cut too far across, but obviously resulted in  
16 a child protection investigation following an allegation  
17 about conduct towards a child in the placement.

18 Q. If we go on to page 6, I think we see the independent  
19 report there.

20 A. (Witness nods)

21 Q. At the bottom of page 6 it begins to say that she'd been  
22 very child-centred, it looks as though she'd been  
23 a foster carer since 2005?

24 A. Yes.

25 Q. To begin with things were going well, but then it says

1           that there had been a shift in her approach since 2011  
2           which is evidenced in the records. Then it talks about  
3           various issues that you've mentioned: lack of  
4           supervision, removing ladders from a bunk bed with  
5           a child falling and hurting themselves, a child being  
6           left unsupervised and having a nosebleed, it continues.  
7           Then it says:

8                 "The latest incident where a child burnt their  
9           fingers, this incident became a child protection  
10          investigation and the child was removed from her care.  
11          The supervision notes show that the carer did not always  
12          take responsibility for these incidents and her lack of  
13          insight as to how her care was not good enough was  
14          evident."

15                I think that's a summary of the issues that you are  
16          aware of?

17          A. Yes, yes.

18          LADY SMITH: Stuart, I think I'm right in saying she was  
19          aged 60 when she first became a foster carer?

20          A. Yes, yes.

21          LADY SMITH: And handed in her resignation when she was 68?

22          A. Yes.

23          LADY SMITH: Is that at the older end of your range of  
24          foster carers in the Borders?

25          A. Yes, it is.

1 LADY SMITH: Unusual?

2 A. Quite unusual. That's not really a very good answer.

3 I suppose we do have some older carers who have been  
4 fostering for a number of years, but we -- obviously the  
5 training and input has changed quite significantly over  
6 the years and again it's constantly assessed in terms of  
7 actually their ability, willingness and capability of  
8 being able to provide good quality care to our children  
9 and young people. So it's something that remains under  
10 review, but in this particular circumstance, that was at  
11 the older end of the scale.

12 LADY SMITH: Thank you.

13 MS INNES: If we move on to page 7 and the second paragraph  
14 there, mention is made of a further concern being that  
15 in the early years of fostering she would attend all  
16 training offered and felt that she benefitted from the  
17 training. It says:

18 "In the latter years she refused to attend training  
19 outside of the Scottish Borders so she has been limited  
20 in the courses she can attend. This may have affected  
21 her ability to provide appropriate care for the children  
22 in her care as training is vital for updating and  
23 refreshing knowledge and skills."

24 Obviously there's some criticism of her not  
25 attending training. However, it's saying that that



1 training is outside the Borders, so would that  
2 potentially not be an issue for her? If she's looking  
3 after children in the Borders, she's got her caring  
4 responsibilities, and then the Local Authority are  
5 expecting her to go outwith the area for training?

6 A. It could be. Again, it depends on the nature of the  
7 placements at any given time that a carer has and we  
8 would always be looking to make sure that there was  
9 adequate support for other arrangements for children,  
10 for example.

11 I think what's being referred to there -- well,  
12 I know what's being referred to there is not something  
13 that would be, for example, an overnight somewhere else.  
14 It is basically during the day and the geography within  
15 the Borders is not the easiest to be able to navigate in  
16 terms of attending out-of-authority training without it  
17 being a bit longer. But that being said, clearly her  
18 not being able to attend training is an issue that would  
19 have to be looked into quite carefully in terms of the  
20 children in her care.

21 LADY SMITH: What training is provided for foster carers  
22 that's beyond your boundaries?

23 A. There are some I suppose shared arrangements, for  
24 example, with East Lothian, Midlothian, where we may do  
25 a collaboration in terms of -- again, it's about

1 economies of scale to be honest in terms of how we can  
2 deliver good quality training to foster parents.

3 Also we've found it's quite useful for them to  
4 actually have an interface with carers from other areas  
5 in terms of their experiences.

6 Generally speaking, most of it's in house, it's  
7 within the Scottish Borders. We tend to purchase  
8 training where it's required to come in or indeed run by  
9 ourselves in the Borders and make that as accessible as  
10 we possibly can within the context of the Scottish  
11 Borders area.

12 LADY SMITH: I noted you said there that it would give  
13 foster carers the opportunity to meet up with foster  
14 carers from other Local Authorities --

15 A. Yes.

16 LADY SMITH: -- and feel they're part of a bigger network.

17 A. Absolutely.

18 LADY SMITH: I can see the value of that potentially. Thank  
19 you.

20 MS INNES: If we scroll down towards the end of this page,  
21 there's recommendations for practice. There's obviously  
22 a recommendation in relation to the foster carer  
23 specifically. At (ii) it says:

24 "A chronology should be kept on all foster carers --  
25 as the latest report for the fostering panel raised no

1 concerns regarding the foster carer's care. It was not  
2 until the latest incident occurred that a chronology was  
3 compiled and all the concerns over the last few years  
4 were noted together."

5 A. (Witness nods)

6 Q. That seemed to be an issue that issues weren't being  
7 raised at the fostering panel and that a chronology was  
8 needed. Is that something that you put in place after  
9 this?

10 A. It's something that was put in place and it's still --  
11 it's an ongoing evolving -- I think in the wider context  
12 of children's services, the use and function of  
13 chronologies and the really quite vital role that they  
14 can play in identifying significant events in a child's  
15 life. Similarly, how that reflects for a chronology of  
16 events for a foster carer where, for example, you have  
17 events where allegations are made or something has  
18 happened in the context of being a foster carer is  
19 recorded in that chronological format, yes.

20 Q. I think looking at the date of this report, this was at  
21 the end of 2012 although we know that ultimately she  
22 didn't go to a panel until 2014.

23 A. Mm-hmm.

24 Q. You have told us in your response that you developed  
25 a policy in relation to multiple concerns or

1       allegations. I'm assuming, given the timing of that  
2       report and the policy which I think you told us was  
3       implemented in January 2014, that that was a result of  
4       what happened in this case?

5   A. Yes.

6   Q. Okay.

7           I'd like to move on to ask you about some of the  
8       evidence that has been led over the course of this case  
9       study. I think in your folder at the second tab  
10      there'll be a small table with the names of the  
11      applicants and their pseudonyms? It should be maybe at  
12      the second tab in the folder.

13  A. I don't seem to have a table.

14  LADY SMITH: Just a list?

15  MS INNES: Okay, I think we might be able to manage it,  
16      because there's only two.

17  A. Okay.

18  Q. And I think that you'll --

19  A. Okay.

20  Q. -- know who I'm talking about.

21  A. Yes.

22  Q. On Day 295, 14 June 2022, a statement was read in from  
23      an applicant with the pseudonym 'Agnes'.

24  A. Okay.

25  Q. We know that she was placed in foster care with people

1 in Rothesay, I think?

2 A. Yes.

3 Q. I think you've had an opportunity to read her statement  
4 and reflect on it. What were your reflections from  
5 reading that statement?

6 A. My reflections were I was quite appalled by what I read.  
7 Quite clear to me that this young person was I think the  
8 term is boarded-out. My recollections are there was  
9 very limited or not able to identify where there was  
10 a degree of responsibility and accountability for that  
11 child in the placement they were in and that's before we  
12 get to the point of the conditions and what she was  
13 subjected to from her statement in that placement.

14 I found it very difficult to read, if I'm totally  
15 honest. She experienced things that young people or any  
16 child or young person shouldn't have to experience. And  
17 my main reflection was it almost felt cast adrift. It  
18 was out of sight, out of mind I suppose would be the  
19 terminology I was -- I would use. And the lack of  
20 records or the scant records that were available really  
21 was quite sobering, to be honest, in terms of what that  
22 must have been like for that child in those  
23 circumstances.

24 But generally I'm just quite appalled, really, at  
25 the way in which that entire set of circumstances was

1 handled and the lack of support to a young person in  
2 those circumstances.

3 Q. The other applicant, whose evidence I know that you've  
4 looked at, was an applicant with the pseudonym 'Cody',  
5 whose statement was read in on Day 334, 7 October 2022.

6 In addition to the original statement that 'Cody'  
7 gave to the Inquiry, he also recently provided  
8 an additional statement which was read in on that day  
9 following some reflections that he had having looked at  
10 his records.

11 I think you've had the opportunity to see what he  
12 said in those statements and you've also read some  
13 excerpts of the records that have been put into the  
14 bundle.

15 A. (Witness nods)

16 Q. I'll take you to some of those records in a moment.  
17 Again, do you have any reflections on 'Cody's' statement  
18 and experience before I go to the records?

19 A. Yeah, I would again reflect shock and disappointment and  
20 horror, really, in terms of the number of placement  
21 moves. The impact on attachment relationships was quite  
22 stark. You know, I'm really quite horrified looking at  
23 the number of different changes to care placement that  
24 'Cody' experienced, and that's before you even consider  
25 the educational changes that took place to compound that

1 as well as the relationships.

2 Again, very difficult to read would be my reflection  
3 and quite horrified, really, at his experience.

4 Q. 'Cody' gave evidence about a particular placement and we  
5 have some records from that which, as I say, I know that  
6 you've had a look at.

7 I wonder if we could look first of all at  
8 SBC-000000539, page 3. It will come up on the screen.

9 A. Oh, right.

10 Q. At page 3 we see an entry of 4 October 1993, a telephone  
11 call from somebody in the Family Placement Team saying  
12 that she'd spoken to the foster carers by telephone:

13 "They informed her that this had been another  
14 incident on Saturday, 2 October. On Friday 1st they had  
15 gone out for a meal at a restaurant and 'Cody' had  
16 stormed out. On raising this issue with him the  
17 following morning, 'Cody' became defensive and the  
18 incident developed with him threatening the female  
19 foster carer. The male carer pulled 'Cody' off her and  
20 tapped him on the back of his head with the outstretched  
21 fingers of his right hand. The incident was resolved at  
22 that time with 'Cody' apologising and they reported  
23 a good weekend following this."

24 Then the next paragraph says that the worker:

25 "Having discussed the incident with the foster

1 carers, she decided that no further action was  
2 appropriate. I confirmed that I felt this was not  
3 necessary in view of the male carer's description of the  
4 incident and that it had been resolved."

5 I think this may have been a discussion between the  
6 foster carer's social worker and the child's social  
7 worker perhaps, and do you have any reflection on that  
8 initial view that was taken not to take any further  
9 action?

10 A. On the basis of the information that's there, I don't  
11 agree with the action they took, to be perfectly honest  
12 with you.

13 I am also drawn to the fact that it's said --  
14 I think it said "another", which indicates one preceding  
15 that.

16 So certainly reflecting that in current practice,  
17 anything of this nature would result in a referral to  
18 child protection -- sorry, where physicality's been used  
19 on a child. Yes.

20 Q. The next entry if we scroll down, 6 October 1993,  
21 discussion with somebody who is described as a senior  
22 social worker child protection:

23 "Discussed this and previous incident with Paul, who  
24 advised that such incidents should be recorded on the  
25 detailed records forms."



1           The answer seems to be: record it.

2           I notice you're shaking your head there.

3   A.   Yeah.  Again I can only reflect in terms of what  
4       practice would be now, is that actually it wouldn't just  
5       be a case of it would be recorded.  It would probably  
6       lead to inter-agency referral discussion where again  
7       a child has been struck.

8   Q.   Then if we can move on to another record, SBC-000000715,  
9       page 3.  If we scroll down to the very bottom of the  
10      page, 18 January 1995 -- it looks very small on the  
11      screen.  Maybe you could -- thank you.

12   LADY SMITH:  Thank you.

13   MS INNES:  This is a discussion with Paul Woolrich, in fact  
14      the same person that was referred to in the 1993 memo.

15           "Discussed 'Cody's' allegation that the male carer  
16      had hit him and the carer's admission that such  
17      an incident had occurred.  Agreed that the link social  
18      worker is to visit the carers on 20 January 1995 and  
19      will discuss the incident further, establishing more  
20      detail of their account of the severity of the blow,  
21      et cetera.  On the basis of this, I would then consult  
22      with Paul to decide whether I should visit 'Cody' to  
23      discuss the incident, prior to my next planned visit on  
24      31 January 1995."

25           What's your reflection on that?

1 A. Again, just reflecting current practice that actually  
2 you've had a report of an incident where a child has  
3 been hit. Regardless of whether it's an allegation or  
4 anything else, the fact is that you would act on that  
5 information and you wouldn't just record it or defer it  
6 for another visit with someone else going later on. It  
7 would be acted upon immediately.

8 LADY SMITH: The next visit isn't going to take place for  
9 almost two weeks.

10 A. Yes, exactly.

11 MS INNES: Then over the page we see -- I think this is all  
12 on the same date, so again if we can make it a bit  
13 bigger, please. It says there:

14 "Linda to visit tomorrow and establish whether the  
15 male carer's hitting of 'Cody' in the recent incident  
16 was more serious than in the past -- agreed we would  
17 speak to each other after her visit to discuss whether  
18 I need to interview 'Cody' prior to my planned visit [as  
19 we've already mentioned] on 31 January 1995."

20 Again in the next paragraph it says:

21 "Linda to discuss their status as adoptive parents  
22 and G Stanage, principal officer, with a view to  
23 approving them as community carers."

24 It seems to be that at the same time as there's  
25 discussion of this behaviour, there's consideration of

1 approving them as community carers?

2 A. Yes.

3 Q. Do you think that's an issue as well?

4 A. Well, yeah, very much so.

5 Q. If we go down to the bottom of the page, to  
6 20 January 1995, we see there a telephone call from  
7 Linda Hawthorn in the Family Placement Team.

8 "Confirmed the carer's account of the incident with  
9 'Cody', 'Cody' receiving an open-handed slap on the  
10 head, not with the male carer's full force and that this  
11 was in anger, but that the male carer was not out of  
12 control -- in comparison with other incidents, both the  
13 carers felt that this overall had been less serious than  
14 some others -- with 'Cody' this time receiving a 'swipe'  
15 to the head."

16 What are your reflections on that?

17 A. I'm ... I ... yeah. I -- I'm just horrified, really,  
18 that it just seems to be narrative to give a rationale  
19 as to physically hitting a child. And I find it quite  
20 hard, to be honest with you, to read that.

21 And again my reflection would be anything of this  
22 nature reported in this way would be straight through to  
23 child protection and would be looked at through the eyes  
24 of an inter-agency referral discussion.

25 Q. Then the next paragraph refers to an injury that 'Cody'

1 had suffered by being hit on the side of his face with  
2 a door and the female carer says essentially that it was  
3 an accident, she'd apologised and he hadn't mentioned it  
4 to the school.

5 Then if we go over the page at 23 January 1995, this  
6 is a telephone call to Paul Woolrich:

7 "Confirmed incident with 'Cody' similar to previous  
8 incidents and that child protection procedure will not  
9 be invoked, but that this will be treated as  
10 an indicator of the difficulties in the placement for  
11 all parties and will be addressed in overall support and  
12 work with 'Cody' and his carers."

13 The decision seems again to have been not to invoke  
14 child protection procedures but rather to support the  
15 child and the carers?

16 A. Yes, that's my reading of it as well.

17 Q. Then finally from 'Cody's' records if we could look,  
18 please, at SBC-000000170. This is a minute of  
19 a planning meeting on 17 February 1995. We can see that  
20 those present include the child's social worker and also  
21 the Mr Woolrich that we've already seen.

22 A. Yes.

23 Q. The link social worker to the foster carers' social  
24 worker had given her apologies. It says:

25 "This meeting was requested to consider a variety of

1 aspects in relation to 'Cody's' placement at Underley  
2 Garden School and also the carers. As a result of our  
3 discussion, the following points were agreed."

4 1:

5 "In the event of further incidents in which 'Cody'  
6 is assaulted by the male carer, the circumstances of the  
7 incident are to be considered on their merits and  
8 a decision taken as to whether or not to invoke the  
9 child protection procedures.

10 In the meantime, in their work with the carers,  
11 Linda Hawthorn and Anna O'Reilly will continue to give  
12 the carers the message about the inappropriateness of  
13 physical chastisement."

14 Again, I know that you have some views in relation  
15 to what's said here, I think particularly with reference  
16 to assault?

17 A. The language -- this constitutes, it's written down as  
18 an assault on a child and to say that the circumstances  
19 of the incident are to be considered on their merits,  
20 it's child protection. There's not a debate as far as  
21 I'm concerned. In terms of current practice it wouldn't  
22 be debated, it wouldn't be looked at on its own merits.  
23 That's why we have that system in place, to ensure that  
24 children are safeguarded and protected.

25 LADY SMITH: There's no doubt your child protection

1 procedures will look at -- I wouldn't call them its own  
2 merits, but they will look at the whole facts and  
3 circumstances --

4 A. Of course.

5 LADY SMITH: -- of what happened?

6 A. Absolutely, and --

7 LADY SMITH: It's for them to --

8 A. -- through a multi-agency lens also.

9 LADY SMITH: Mm.

10 MS INNES: If we can look back to SBC-000000015, page 40.

11 This is the Part B of the Section 21 notice, which is in  
12 relation to acknowledgement of abuse.

13 At paragraph 3.1 you note that, yes, you know that  
14 children cared for in foster care in the Scottish  
15 Borders and its predecessors were abused.

16 A. Yes.

17 Q. You accept that?

18 A. Yes.

19 Q. If we move down to 3.2, at 3.2(a) the question is posed:

20 "Does the Local Authority accept that its systems  
21 failed to protect children in foster care over the  
22 relevant period from abuse?"

23 The answer given is:

24 "The Local Authority do not consider that this would  
25 be a suitable inference to draw based on the information

1 available."

2 I wonder if, having reflected on the evidence that's  
3 been given during the course of the case study and on  
4 matters further, whether you've any different view in  
5 relation to that?

6 A. Very much a different view. We certainly do accept that  
7 systems failed to protect children in foster care in  
8 Scottish Borders Council care or its predecessors.

9 Q. What sort of failures have you identified?

10 A. There's a variety of failures that have been identified  
11 in terms of record-keeping, for example, but clearly  
12 some of the practice that used to take place in terms of  
13 boarding out, children not being supported, the voice of  
14 the child being almost non-existent, the frequency of  
15 moves, there's a catalogue of them. You know, the fact  
16 that actually I've -- there is a document which actually  
17 uses the term "assault" of a child to be looked at on  
18 its own -- I find that really difficult to  
19 interpret/understand. It certainly is not something  
20 that would be even remotely considered or tolerated in  
21 current practice, but it's very difficult to see.

22 It's that bit about the voice and the needs of the  
23 child are paramount. That child needs to be the centre  
24 of everything that's happening and the child needs to be  
25 heard if the child has got something to tell us.

1           But certainly looking at the case examples and also  
2           reflecting on the fact that we -- because of the lack of  
3           information from historical records, it's very difficult  
4           to ascertain the true scale and scope.

5           Again, the Local Authority recognises that, but  
6           clearly ongoing developments and lessons that need to be  
7           learned, but I've been quite shocked by some of what has  
8           been found as we go -- look back the way, and the need  
9           for us to continue to keep children at the centre of  
10          everything that we're doing.

11   Q.   Then over the page at page 41 and paragraph 3.3(a), in  
12          answer to the question, "Does the Local Authority accept  
13          that there were any failures or deficiencies in its  
14          response to abuse and allegations of abuse over the  
15          relevant period?"

16          The answer given at the time of the response was:

17          "The Local Authority do not consider that this would  
18          be a suitable inference to draw based on the information  
19          available."

20          Now, standing what you said, particularly for  
21          example in relation for example to 'Cody's' case where  
22          child protection procedures should have been invoked,  
23          that would be a failure in response to abuse?

24   A.   Yes.   Yes.

25   Q.   I think you'd review your answer in relation to that as



1 well?

2 A. Definitely, yes.

3 Q. Beyond the matters that we've discussed in your  
4 evidence, I don't know whether you have any other  
5 reflections on lessons to be learned and changes that  
6 should be made? Or perhaps we've covered them in your  
7 evidence already?

8 A. Yeah, apologies, I do tend to talk, but no, it just --  
9 I think some of the opportunities that are available and  
10 that drive to make sure the children are at the centre  
11 of everything that we're doing and that includes the way  
12 in which services are designed and scoped, but that  
13 voice needs to be around the table. We need to be  
14 listening to what our care-experienced young people are  
15 telling us.

16 And there are certain policy drivers at the moment  
17 which are hopefully going to make that -- not so much  
18 easier but a more defined opportunity for young people  
19 to have their say and certainly doing things a lot more  
20 now than what we've ever done, with the development of  
21 Champions' Boards for young people.

22 I could probably talk for a day and I won't, you'll  
23 be delighted to know, but there are some real lessons  
24 about -- again just reiterating some of the stuff that  
25 I've already mentioned, but I've found it quite

1 difficult to see some of that documentation from  
2 previous but also not so previous, and the lack of  
3 accuracy.

4 So, yeah, I won't go any further in terms of my  
5 reflections other than just really sorry about the  
6 experience that some of these young people have had.

7 MS INNES: Thank you very much, Stuart. I have no more  
8 questions for you.

9 There are no applications, my Lady.

10 LADY SMITH: Thank you.

11 Are there any outstanding applications for questions  
12 of Stuart?

13 Stuart, that completes everything we have to ask you  
14 this afternoon. Thank you again for coming here today,  
15 for providing the documents you have, and for being able  
16 to go back and review some of the responses and alter  
17 your position as frankly as you have done. I really  
18 appreciate that and if I may say, it's an entirely  
19 appropriate way to proceed, given our fundamental  
20 interest in the welfare of children.

21 I'm now able to let you go and I'm sure you're glad  
22 about that and I hope you have a safe journey home.

23 Thank you.

24 A. Thank you.

25 (The witness withdrew)

1 LADY SMITH: That takes us to 4 o'clock, Ms Innes.

2 MS INNES: It does, my Lady, and tomorrow we have evidence  
3 from witnesses, two witnesses in the morning giving  
4 evidence together from East Lothian and then a witness  
5 from West Dunbartonshire in the afternoon.

6 LADY SMITH: Thank you very much.

7 I'll rise now until 10 o'clock tomorrow morning.

8 (4.01 pm)

9 (The Inquiry adjourned until 10.00 am on  
10 Friday, 4 November 2022)

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I N D E X

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