

1 Wednesday, 9 November 2022

2 (10.00 am)

3 LADY SMITH: Good morning and welcome to the second day this
4 week of Local Authority evidence. We're going to start
5 this morning with Graeme Simpson from Aberdeen Council
6 again, I think. Is that right?

7 MS INNES: Yes, my Lady, he returns to give evidence. He
8 gave evidence at the beginning of this case study on
9 Day 284, which was 17 May.

10 LADY SMITH: Yes. Thank you.

11 Graeme Simpson (sworn)

12 LADY SMITH: Is it okay if I still call you Graeme, as I did
13 in May?

14 A. It didn't put me off last time.

15 LADY SMITH: Thank you. The rule is that whatever helps you
16 to give your evidence in the most comfortable way
17 possible will work for me. You know what the red
18 folder's for and you may remember that we'll also put
19 documents up on screen to help you as we go through your
20 evidence.

21 A. Thank you.

22 LADY SMITH: Ask any questions you want at any time and if
23 you think we're missing something that we should be
24 discussing with you do say, all right?

25 A. Thank you.

1 LADY SMITH: If you're ready I'll hand over to Ms Innes and
2 she'll take it from there.

3 MS INNES: Thank you, my Lady.

4 Questions from Ms Innes

5 MS INNES: Graeme, you gave evidence before, as we know, and
6 at that time you were Chief Officer for Children and
7 Family Services and Chief Social Work Officer with
8 Aberdeen City Council. Does that still remain your job
9 title?

10 A. Yes, it does.

11 Q. Thank you.

12 In your evidence in May, one of the things that you
13 mentioned was that you anticipated that a national
14 allowance for fostering and kinship care would be
15 announced imminently. Is there any update in relation
16 to that issue?

17 A. The information at the time was that we were
18 anticipating an announcement post the Scottish election
19 in May 2022. Unfortunately, we have not heard
20 an announcement of that so we are still waiting for
21 a government position on the implementation of
22 a national minimum allowance for foster carers.

23 Q. Okay.

24 LADY SMITH: Just to be clear, it remains the case at the
25 moment that the rates paid by different Local

1 Authorities in relation to both fostering and kinship
2 care vary right through the country, is that right?
3 A. They do, my Lady.
4 LADY SMITH: And these are standard rates vary, extra
5 allowances for special provision vary, allowances for
6 direct expenditure for the children and pocket money and
7 so on vary. Is that right?
8 A. There is no uniform position across Scotland and each of
9 the 32 Local Authorities will take their own position
10 around that, so yes, there is considerable variation.
11 LADY SMITH: Thank you.
12 Ms Innes.
13 MS INNES: Do you view the implementation of a national
14 minimum as a positive thing?
15 A. I think it would bring consistency and therefore,
16 I think, remove some of that sense of unfairness that
17 I think is at times felt by foster carers who, just
18 because they live on the other side of a Local Authority
19 area, may well have a different level of allowance paid
20 to them for caring for a child of similar needs. So
21 I think the removal of that would be helpful around it
22 and so therefore I think that would be a positive.
23 Q. Okay.
24 I want to ask you first of all about a conviction
25 that you told us about in your response to the Inquiry's

1 section 21 notice but we didn't have time to look at
2 previously. This is the conviction of a William Watson.

3 If we can look, please, at JUS-000000099.

4 This is a copy of Mr Watson's conviction.

5 Your Ladyship will see that this was on 7 February 2013,
6 he was sentenced on 7 March 2013. He was convicted of
7 four charges of sexual offences in respect of two
8 complainers, and he was sentenced to a period of six
9 years in prison, although as I understand it he did not
10 serve that. From information provided by the Local
11 Authority he was released on compassionate grounds in
12 2014 and died shortly thereafter.

13 LADY SMITH: Thank you.

14 MS INNES: Moving on to page 2, Your Ladyship will see the
15 charges of which he was convicted. So charges 2 and 3,
16 which are sexual offences, those relate to the same
17 complainer. The difference is obviously to do with age.

18 If we move on to the second page, page 3, again we
19 see charges 6 and 7, those are two charges again in
20 respect of the same complainer but a different
21 complainer to the one that we've already looked at.
22 Again, sexual offences and the fact that there are two
23 charges relates to the age of the complainer at the
24 relevant periods.

25 Your Ladyship will see that the earliest offending

1 was [REDACTED] 1968 and the latest, [REDACTED] 1973, and
2 started when the complainers were nine.

3 There are other charges Your Ladyship will see on
4 the indictment of which he wasn't convicted. Those
5 charges were not proven.

6 Graeme, the Local Authority gave us an addendum
7 telling us about this conviction and providing us with
8 some reflections that had arisen from looking into this
9 case, so if we can look, please, at ABN-000000326, you
10 tell us there if we scroll down to the middle of the
11 page, it's blanked out, but the two girls that we've
12 seen who were complainers were both fostered by
13 Mr Watson [REDACTED]. It talks about the way in which
14 their files are set out, but I think the Local Authority
15 was able to look at both of the files for the girls at
16 the time that this was prepared.

17 If we look down to the bottom of the page, there's
18 a note about how Mr Watson became a foster carer and at
19 the very end of the page it says:

20 "... he [REDACTED] began fostering in 1957 where
21 upon they had numerous children within their care for
22 varying periods of time."

23 It's noted at the top of the next page I think that
24 the way in which a foster carer would have been assessed
25 at the time of being approved as a foster carer has

1 changed significantly since the 1950s when Mr Watson
2 would have been approved; is that right?

3 A. That would be my clear understanding, yes.

4 Q. Then it goes on to talk about the girls in the next
5 paragraph and it says that there are issues about where
6 documents are stored. So it says that some material
7 relevant to one child has actually been put into the
8 other child's file, so that might highlight an issue
9 about recording and making sure that information
10 relevant to the specific child is on that child's file.

11 A. Absolutely, yes.

12 Q. Then it says:

13 "Clearly there were concerns about Mr Watson's
14 ability to meet the children's needs after [REDACTED]
15 passed away in 1968 and many references to the children
16 benefitting from a female presence. The sourcing of
17 a housekeeper and exploring supports within the family
18 and community bears some relation to current practice in
19 terms of supporting the family to ensure the children
20 are protected from further instability, disruption, harm
21 or neglect."

22 So there's a suggestion that there was some
23 consideration of the circumstances following the death
24 of [REDACTED], but in current practice would there
25 not be a full re-assessment at that point?

1 A. There would be, yes. In this instance, as I understand
2 it, William Watson (WW) were approved to
3 foster and clearly if one dies, in this instance
4 then we would have to reassess Mr Watson as
5 a single foster carer in his own right and that would be
6 the current practice today.

7 Q. Then in the next section there's a note of the
8 allegations of abuse and these are excerpts from the
9 file where the local area office -- we understand that
10 although the girls seem to have been in Aberdeen at the
11 beginning, Mr Watson I think moved over to
12 Fort William at some point?

13 A. (Witness nods)

14 Q. And it looks like a person from Inverness, a social work
15 organiser from Inverness, called the Local Authority:
16 "... really very concerned about these two girls.
17 They had gone in to the typist in the social work office
18 and apparently had been in the habit of doing this
19 really for a chat, but today they indicated that their
20 foster father had been interfering with them.
21 Mr Faggans appeared very concerned for the girls and his
22 suggestion that the doctor should be asked to see them
23 was, I thought, the right one ... I felt the girls
24 should come away tonight from Mr Watson and the local
25 area supervisor appeared to have made arrangements

1 already about this and to have looked out a foster home
2 who would take them."

3 It obviously appears that as soon as this came to
4 light, the person who was in the local area took action,
5 informed you, Local Authority, but also took steps to
6 protect the children.

7 A. (Witness nods)

8 Q. However, I notice that there's this suggestion that
9 they'd been going into the local social work office
10 quite a lot and is that something that you would say
11 would raise alarm bells?

12 A. It's certainly something that would make me question
13 why. You know, I mean it's not -- it wouldn't be common
14 for children to just appear within a social work office,
15 particularly where their allocated social worker is not
16 based. In this instance, I'm sure Aberdeen City would
17 have retained responsibility for the girls, their
18 allocated worker probably would have been based in
19 Aberdeen, they may have come to some arrangement with
20 Highland Council at that point in time for them to
21 provide some support to the local placement, but
22 nonetheless the relationship the girls would have had
23 would have been with Aberdeen and certainly that's --
24 so, again, I think the fact that actually two girls
25 unrelated, going into a social work office in a town

1 they're not from, in itself would set questions for me
2 that would require further consideration and further
3 investigation.

4 LADY SMITH: How old would the girls have been at this
5 stage, Ms Innes?

6 MS INNES: So that was in 1972.

7 LADY SMITH: 1972.

8 MS INNES: One of the girls was born in 1957, so 15.

9 LADY SMITH: Yeah.

10 MS INNES: And the other girl was born in 1958.

11 LADY SMITH: 14-year-old.

12 MS INNES: 14, 15, yeah.

13 It is of interest also to note, Graeme, that it was
14 the typist that they were talking to. So I think we've
15 heard evidence quite recently about the importance of
16 all staff being aware of child protection issues,
17 safeguarding is everybody's responsibility is something
18 that's sometimes said, and it appears that they had
19 obviously formed enough of a relationship with this
20 administrator to tell her what was happening.

21 A. (Witness nods)

22 Q. So I suppose that indicates that, as I say, the
23 importance of everybody who are involved in contact with
24 children, whether it's in the social work office or at
25 school or wherever, to be aware of issues and how they

1 should raise them.

2 A. Absolutely and I would go beyond that. I think it's
3 important for all members -- all staff within a council.
4 So again if you're thinking about a plumber or a joiner
5 going in to fix a house and they're seeing a house in
6 squalid or unhealthy conditions, it's important for them
7 to know how to flag those concerns, and certainly that
8 would be our practice that currently we would have
9 a corporate child protection policy for all staff to
10 have a minimum awareness of what might constitute
11 concerns for children and how to report those.

12 Q. Then if we look down this page under "Current practice
13 and assessment", towards the bottom of the page, there's
14 a paragraph beginning:

15 "The girls were removed ..."

16 As we've seen, and that would be in keeping with
17 contemporary practice, but it says:

18 "... there is a lack of evidence of a strategy
19 meeting, or for that matter evidence of discussions
20 which would explain why an adopted son and another
21 foster child who was male remained in Mr Watson's care."

22 So that seems to be lacking from the file.

23 A. I think it is. I would have concerns for the two
24 remaining children within that household. I would
25 suspect, and I'm surmising here, that actually there

1 would be a suggestion that because the two girls who
2 were making the allegations, that Mr Watson's behaviour
3 may have been focused on them, I think that's an unsafe
4 assessment -- judgement to make, and I would be
5 concerned for all the children irrespective of their
6 gender within the household.

7 Q. Then there's reference to the person with the initials
8 MU, who I think must be a person who works within the
9 social work department:

10 "MU got Mr Watson on his own and asked him quite
11 definitely whether he had been interfering with the
12 girls. He said that he knew he had been annoying one of
13 them over a period but it was usually when he had had
14 a drink and he admitted to having been drinking quite
15 a bit ..."

16 So that seemed to be his position at the time.

17 Then if we move on to -- sorry, I should pause
18 there. But there was no police investigation at the
19 time, I don't think, back in 1972?

20 A. No, I'm not seeing that from the record.

21 Q. Then if we move to page 3, if we look down to the 1992
22 report of abuse, you discovered that in 1992 Grampian
23 Regional Council received a letter from one of the girls
24 requesting access to records and in her letter she says
25 that after her foster mother died, "... my foster father

1 started interfering with my sister and myself at 13
2 years I think. It's all more a blank now ..."

3 And she talks about her recollections of what
4 happened to her and how that has impacted on her.

5 You've told us that there was a reply to that and
6 under "Current practice and assessment" you say:

7 "It is to be noted that there was no acknowledgement
8 of her statement that she'd experienced sexual
9 abuse ..."

10 In your response. I think you go on to say that
11 currently practice would be different in relation to
12 that?

13 A. Absolutely. I mean I think that we would very much want
14 to ensure that the victim in this instance knew that
15 she'd been heard, that we had heard her allegations,
16 that we had ensured that she had the appropriate medical
17 treatment and care and that actually that we would also
18 be providing some therapeutic response to the
19 experiences that she had endured, but recognising that
20 that would not be quick or straightforward as well.

21 Q. Then just at the very bottom of this page you tell us
22 about what was seen in the other girl's file, so I think
23 the information that you had in relation to the
24 allegation came from one of the girls and in the other
25 girl's file, in an entry on 23 December 1971, there was

1 a letter from the social worker.

2 "She reports the children visiting the office from
3 time to time and commenting that Mr Watson is out a lot
4 at night. The actions noted focus on financial support
5 for the family and specifically an allowance for the
6 girls as opposed to making enquiries as to the
7 children's care and supervision. It is later recorded
8 that the children were regular visitors to the social
9 work office."

10 Again we see the issue about the girls going to the
11 office, but also that Mr Watson was out a lot at night.
12 So again I think your reflection on this was those
13 issues should have been interrogated?

14 A. Absolutely. There's a missed opportunity there to
15 understand. These were children. There was no
16 responsible adult looking after them. That would not be
17 what we would expect at all and should have been
18 requiring of further -- a follow-up enquiry and concern.

19 Q. One of the other documents that you provided to us was
20 the records, and if we could look, please, at
21 ABN-000000282, page 1. If we look at the entry at
22 22 November, so this is in 1971, and it says:

23 "This child's case came before a Children's Hearing
24 today. The social work committee had before them a full
25 report. Because the foster mother in this case has

1 died, there are certain at risk situations in the home.
2 It was decided that a supervision requirement should be
3 made in this case and the case should be reviewed again
4 in a year."

5 It seems to be the case that there was -- obviously
6 it was known the foster mother had died. It was known
7 that there were risks, although it doesn't spell out
8 what those are, and the conclusion seems to be that
9 a supervision requirement would be made and reviewed in
10 a year? Do you have any comment on that?

11 A. I'm struggling, if I'm honest with you. I think,
12 looking at this, 1972, the Children (Scotland) Act 1968
13 would have come into effect in 1971 and so therefore
14 supervision requirements do last for a year, but simply
15 because a foster mother has died, then why would we
16 consider a child to be, you know, requiring of
17 a supervision requirement in that instance?

18 It goes back to your earlier statement that the
19 social work department should have undertaken a full
20 re-assessment of Mr Watson in his own right to determine
21 whether or not he had the capability to meet the needs
22 of the children in his care at that point in time, and
23 for me that would have been where I would have seen us
24 going today, rather than actually simply referring
25 a child to the Children's Hearing and seeking

1 a supervision requirement as well.

2 So for me there is an incongruence here that I'm
3 struggling to make sense of.

4 LADY SMITH: I see that this is just one of the children
5 that's got her case before the Children's Hearing, but
6 they were only a year apart and we're only in 1971.
7 They're very, very young at that stage, is that not
8 right? Pre-school?

9 MS INNES: No, they were born in 1957 and 1958.

10 LADY SMITH: 1957 and 1958, but they're still pretty young,
11 these children?

12 A. Pretty young.

13 LADY SMITH: Yes. Thank you.

14 MS INNES: Another document that you supplied us with was
15 ABN-000000279, which was the criminal justice social
16 work report for Mr Watson. I think if we look on to
17 page 3, and we look at what is the level of
18 responsibility taken by the individual for the offence,
19 he -- it's noted that he said that he didn't do any of
20 it and refuted all aspects of the index offences.

21 "He went on to say that he couldn't understand why
22 the complaints had been made ... requested a lie
23 detector test ... he stated the victims had been
24 previously medically examined and there had been no
25 damage found ..."

1 I think that is in the records.

2 "... no formal charges pressed against him at the
3 time. As the interview progressed, Mr Watson stated
4 that he had touched the victims on their front. When
5 this was explored further, he indicated that he had
6 touched the victims on the vagina but had not inserted
7 his fingers as stated in the court papers, nor did he
8 accept any other details of the index offences. He also
9 says it was only once on each ..."

10 In respect of each complainer. He says it was when
11 they were 15 and 14:

12 "He accepted very little responsibility for his
13 actions and attempted to apportion blame upon the
14 victims by describing how they would hang around his
15 bedroom door and did not take much encouragement,
16 suggesting the victims played a role in the initiation
17 of this behaviour. This statement also seeks to
18 besmirch the character of the victims by suggesting that
19 their conduct was inappropriate and sexualised. At
20 various points in the interview, Mr Watson described the
21 victims as being promiscuous and unruly, which in my
22 opinion, was an attempt to discredit the victims and
23 minimise his level of responsibility."

24 Then in the next section he goes on to talk about
25 that the offences "just happened" and there's reference

1 to the death of [REDACTED] and it's noted:
2 "The index offences were predominantly committed
3 after that when the vulnerability of the victims was
4 heightened by the fact that Mr Watson was the sole carer
5 and there were no other adults within the household."
6 Which, as you've indicated, is an obvious issue.
7 I think we can see from the criminal justice report that
8 Mr Watson doesn't accept responsibility and he in fact
9 tries to blame the girls and I think he goes on to
10 indicate that because there was no physical effect he
11 doesn't appreciate that there was any impact of his
12 actions on the complainers.
13 A. Absolutely. It completely minimises his actions,
14 doesn't recognise the emotional, psychological impact on
15 the girls, nor does he recognise that these were
16 children, and actually as the adult he's the responsible
17 person here, not the girls.
18 LADY SMITH: He makes no allowance for the possibility that
19 he simply corrupted them.
20 A. Correct.
21 LADY SMITH: If they were hanging around his bedroom door,
22 he caused that.
23 A. Yes.
24 MS INNES: I want to move on, Graeme, to talk to you about
25 some of the evidence which has been led over the course

1 of this case study in respect of applicants that the
2 Inquiry has identified Aberdeen City Council is the
3 responsible authority.

4 There is a list of those applicants in your folder,
5 I think at tab 2.

6 A. Thank you.

7 Q. That has a list and obviously I'll be using the
8 applicants' and witnesses' pseudonyms, so if possible,
9 if you would be able to do likewise that would be really
10 helpful.

11 I know that you've had an opportunity to consider
12 the evidence of those who gave evidence and who are on
13 that list, but I want to ask you about some of them in
14 turn.

15 First of all, I'd like to ask you about the evidence
16 of 'Jane' and 'Janet', who you'll see gave evidence on
17 Days 293 and 298 respectively. They were sisters who
18 were in foster care in Gardenstown. I'm going to look
19 at something in their records but before I do that, did
20 you have any reflections on their evidence?

21 A. I think I had reflections on all of the evidence that
22 the witnesses have given. I found it difficult and at
23 times painful reading, and really, you know, one of
24 immense sadness for them all.

25 I think also for me it does reflect that fostering

1 has changed significantly in the almost 70 years,
2 really, since they were first placed within a fostering
3 setting, and our expectations of them are very
4 different.

5 In this instance, clearly the ruralness of the
6 setting, the expectations within the placement was
7 really not acceptable at all and indeed the impact that
8 had on them as well is significant.

9 Q. Yes. I think it was obviously a farm setting and
10 I think both girls talked about the excessive amounts of
11 work that they had to do in placement. They were doing
12 heavy farm work.

13 A. Absolutely. And one would say almost Dickensian in some
14 respects, but certainly that would not be what we would
15 expect. We would expect children to be cared for, to be
16 treated and viewed like children and certainly not used
17 to be used as an extra labourer within a farm context.
18 Exploitative labour.

19 Q. If we can look, please, at ABN-000000524, I want to ask
20 you about a couple of things from the records. So if we
21 could look, first of all, at page 2 and if we can scroll
22 down towards the bottom of the page, this document is
23 quite heavily redacted. Some of it was redacted by the
24 Local Authority before it was sent to the Inquiry and
25 then obviously the Inquiry's applied redaction in terms

1 of the general restriction order.

2 However, if we look at -- it's on the screen as, "On
3 [blank], 1960", and then talks about the girls going to
4 spend a holiday with the foster carers:

5 "... with a view to eventual boarding out. As they
6 seemed to have made themselves very much at home by the
7 end of a fortnight, and did not want to return to
8 Aberdeen, it was decided that they should remain, and
9 arrangements were made for all five children to start at
10 the local school ..."

11 Do you have any reflections on that sort of process
12 of the girls go for a holiday and that, from their
13 evidence, was their understanding of why they were
14 going, and then they ended up staying there long term?

15 A. For me there is a lack of clarity here. I think when we
16 need to remove children from a family context it's
17 important that they have an age-appropriate
18 understanding of why that is happening. It shouldn't be
19 described as a holiday. A holiday has a beginning and
20 an end. It doesn't actually help them understand what's
21 happening in their lives. For me there doesn't seem to
22 be any concrete planning that actually makes this
23 decision. Who's making the decision? Actually where
24 are the views of the children actually recorded within
25 that context as well? So there are a number of aspects

1 there that I do not recognise as current practice, but
2 obviously read as was the concern in 1960.

3 Q. Then it goes on to say in the next paragraph:

4 "One has qualms regarding this placement, although
5 [the foster carer] is an exceptionally capable and kind
6 personality. Very little first-hand information is
7 available regarding the children, and the information
8 given by Linn Moor prior to placement has already proved
9 to be quite misleading."

10 It looks like the Local Authority don't in fact have
11 enough information about the children themselves before
12 this decision has been made to leave them with these
13 carers?

14 A. Absolutely, I think I gave in my previous evidence that
15 those who came forward to fostering obviously came
16 through different routes, through religious
17 organisations, through other charitable situations as
18 well.

19 Reading of this, Linn Moor is currently still --
20 it's a residential school within Aberdeen City for
21 children with complex disabilities. It's run by VSA,
22 it's always been run by Voluntary Services Aberdeen, so
23 again Voluntary Services Aberdeen historically within
24 Aberdeen City would have had responsibility for
25 fostering as well at that point in time before that

1 Local Authority took on that element of responsibility.

2 So again, for me, it reflects the routes by which
3 people came into fostering were not as regulated and not
4 as robust as they should have been and I believe are in
5 2022.

6 Q. Then it says:

7 "The family are so united that it was unthinkable
8 that they should be separated, but since they came into
9 care it's never been possible to make five places
10 available at one time in the reception centre so that
11 a proper assessment could be made. The risk of placing
12 these children in this foster home in these
13 circumstances was taken because there is a good chance
14 that it may work, and this placement is infinitely
15 better than the only alternative -- a large children's
16 home."

17 So, you have any comment on that?

18 A. One, I would agree that I think it's important for
19 a sibling group to try and stay together. It's really
20 important. We do know that the impact of separating
21 siblings has lasting lifelong impact, so again that is
22 there.

23 There is a challenge, how to find safe, secure
24 placements for large sibling groups and that's still
25 a current challenge.

1 There I think that the lack of information regarding
2 the fostering family, describing it as -- I think that
3 word was ... "there's a good chance that it may work"
4 I think suggests a lack of assessment, a lack of
5 understanding as to what are the factors that are taking
6 into account. Every placement has a level of
7 vulnerability to it, I would accept that, but actually
8 what are those vulnerabilities? How do we mitigate
9 against those vulnerabilities? How do we provide
10 scaffolding to the placement to ensure that those
11 vulnerabilities don't materialise? Those are the
12 aspects that I think are clearly missing from here.

13 We had a willing couple who appeared to have had
14 space within their home for five children, but actually
15 that in itself is simply just not enough to base
16 a decision on what is required for children.

17 LADY SMITH: Like you, Graeme, I was puzzled at that comment
18 that it was "a good chance it may work" and then the
19 bald statement, "This placement is infinitely better
20 than the only alternative, namely a large children's
21 home", but no indication of a proper analysis of the
22 pros and cons of each.

23 A. Absolutely.

24 LADY SMITH: Particularly when it's a decision that's going
25 to affect not just one but five children.

1 A. Yes. And also, my Lady, at that point in time,
2 Gardenstown is right on the coast.

3 LADY SMITH: Yes.

4 A. So in those days it would have been a two-hour commute,
5 best part of that, it's probably about an hour now, you
6 know, so the distance for those children being separated
7 from Aberdeen and their family would have been quite
8 significant at that point in time as well.

9 LADY SMITH: Mm. Thank you.

10 MS INNES: If we move on to page 6 of this document, on
11 18 April 1963 the social worker says:
12 "Visited the carers and saw all the girls except
13 'Janet', who had an unfortunate accident two weeks ago
14 and is at present in the Sick Children's Hospital in
15 Aberdeen. She was playing on the 'hasher' when one of
16 the girls pulled a lever and her fingertips were
17 pinioned. It is hoped that they will heal completely."
18 Then it goes on from there.

19 Now, 'Janet' and her sister gave evidence, as you
20 know, that they were undertaking farm work and that this
21 incident happened when they were working with this piece
22 of farm machinery, whereas here it's described as
23 an accident and that they were playing on the piece of
24 machinery. That explanation just seems to be taken as
25 read?

1 A. Absolutely. There is not a questioning of it. We know
2 that farms are dangerous places, even today, for
3 accidents happened. Completely children should not be
4 near dangerous machinery. Absolutely, full stop.

5 LADY SMITH: Nobody seems to have asked the question what on
6 earth were they doing playing on a piece of dangerous
7 farm machinery.

8 A. Correct.

9 LADY SMITH: How was that able to happen?

10 A. Yes.

11 MS INNES: I think at the bottom of this entry we see:
12 "The house has been rather isolated by the winter's
13 snow but getting to school was no difficulty."
14 The girls again in their evidence talked about
15 having to clear snow and being isolated because of the
16 rural setting that you've mentioned.

17 A. I'm not surprised to hear that snow was an issue.

18 Q. Okay. If we can move on to the evidence of another
19 applicant now, this is an applicant with the pseudonym
20 'Rachel'. 'Rachel' was placed in Fyvie and I think we
21 see here involvement of the Aberdeen Association of
22 Social Service, which I think may be a precursor of the
23 Voluntary Service Aberdeen that you've just mentioned.

24 A. That would be my understanding.

25 Q. If we can look, please, at ABN-000000525, page 6, and if

1 we can look at the entry dated [REDACTED] 1974, where
2 it's noted that there was a phone call from Mr Wilson.
3 Just pausing there, we understand from the records that
4 he was a social worker working with the Aberdeen
5 Association of Social Service.

6 A. Mm-hmm.

7 Q. So he phones:

8 "... telling me that the girls had left the foster
9 home and returned to the care of their grandmother.
10 Mr Wilson was informed that the youngest girl had marks
11 and bruises on her neck and it was possible that the
12 foster carer had caused these. The foster carer's
13 account of the injury conflicts with the girls' and
14 Mr Wilson feels that nothing would be gained by accusing
15 the foster carer or by making an issue of the injuries.
16 Mr Wilson did ask me to visit the foster home although
17 the girls are away but I thought it may be more
18 appropriate if the social worker who visits the other
19 two children in the foster carer's care should be
20 informed."

21 Then on 7 January:

22 "Spoke to Mr McKenzie about this case and we agreed
23 that there would be no point in me meeting the foster
24 carer and discussing this incident when the girls were
25 away. We did feel, however, that Ms Jamieson, area 7,

1 who is the social worker visiting the other two foster
2 children, should be informed."

3 Here it appears there were marks and bruises on the
4 neck of one of the girls who was in foster care. There
5 was a conflicting explanation given, but the social
6 worker that works with the Aberdeen Association of
7 Social Service thinks that there's nothing to be gained
8 by confronting the foster carer about that, and the
9 social worker from the Local Authority thinks there's no
10 point in her following up but she'll pass it to another
11 social worker visiting other children in foster care,
12 who seem to have remained in placement over the relevant
13 time.

14 A. (Witness nods)

15 Q. Do you have any reflections on what's happening here?

16 A. My reflections are we didn't investigate the bruises on
17 the girl's neck at all. There was no indication of
18 police involvement. No indication of a medical
19 examination, what would such an examination tell in
20 relation to the disputed accounts of how that came
21 about. Bruising on neck is a worrying factor, that's
22 a really serious place for bruising to be and one which
23 would immediately cause significant concern from my
24 perspective as well.

25 I think it is important that the other girls' social

1 worker was informed of those, but again questioning if
2 this has happened to one girl, why are we not again
3 considering the position, care and welfare of the others
4 in that foster placement as well?

5 Q. If we can move on to another applicant who gave evidence
6 with the pseudonym 'Anne-Marie', she gave evidence on
7 Day 315.

8 If we could look, please, at her records, so
9 ABN-000002325. On page 1 there is reference to her
10 being placed with foster carers in Bucksburn. I think
11 you're aware that this is a case where the male carer --
12 there are currently ongoing court proceedings in respect
13 of the male carer.

14 A. (Witness nods)

15 Q. I think your understanding is the female carer has died?

16 A. That's my understanding, yes.

17 Q. If we scroll down a bit to a paragraph beginning:

18 "Foster parents Mr and Mrs [Blank], Bucksburn ..."

19 It says:

20 "... who already have one child in care, were very
21 willing to receive 'Anne-Marie' at short notice. When
22 eventually 'Anne-Marie' left her mother she was a very
23 distressed little girl. Over the next few days, daily
24 visits were made in an attempt to help 'Anne-Marie' to
25 settle down. She spoke little and when she did very

1 softly and usually just in monosyllables. On the third
2 evening however, an interesting incident occurred.
3 'Anne-Marie' was playing on the floor with her dolls and
4 using cot blankets. She put the doll to bed and went to
5 the bed beside her. After a little while she got up and
6 the blankets were all ruffled. She got a broom and she
7 came into the room completely transformed. She made for
8 the bed and said, louder than I have ever heard her
9 speak, 'What a bloody mess you fucking bastard!'.
10 "She was completely oblivious of any spectators and
11 she was obviously repeating things that she had heard
12 her mother say. I advised the foster carer to take no
13 notice and that with time she would probably outgrow
14 such behaviour. It took some weeks for her to settle
15 down ..."
16 When 'Anne-Marie' gave evidence about this, she says
17 that her understanding from speaking with older family
18 members who were around at the time that prior to going
19 into care she was a quiet, shy little girl, which is
20 consistent with the initial impression of the social
21 worker, and then she behaved in this way, as described
22 by the social worker.
23 The social worker's response is to say that it's
24 obvious that this is from her pre-care experience. Do
25 you have any reflections on that?

1 A. I think the word for me is "obvious" is the one that
2 I would perhaps take issue with. I'm not sure we can be
3 as definitive as that. It may well be reflective of
4 pre-care experiences but it may well not be, and I think
5 it's important to understand.

6 We're looking again, as I understand this, 1974, so
7 again 'Anne-Marie' would have been four at that point in
8 time. And again, you know, my view would be today
9 I would want a worker to be engaging with 'Anne-Marie'
10 to help her understand -- help us understand what was
11 the language about, what was the distress about, and
12 really just trying to sort of get a sense of what was
13 happening in her head and in her life at that point in
14 time.

15 Q. Then if we move on to page 9 of this document, please,
16 you'll be aware from 'Anne-Marie's' evidence that there
17 was a plan for adoption and the progress of that was
18 slow. So this is a review from 28 February 1984 and it
19 talks about the social worker, Miss Macdonald.

20 If we look down:

21 "Why does the child remain in care? 'Anne-Marie's'
22 progress with the foster carers has continued to be
23 satisfactory. The focus of the review therefore was
24 again on the question of the plans for adoption. The
25 social worker has not yet made the necessary preparation

1 for this, although she states she is about to. It does
2 seem that her reservations about the male carer is the
3 main factor in this continued delay. As a result of the
4 last review, Miss Macdonald's senior did a joint visit
5 to the foster parents and Miss Macdonald thinks that he
6 was satisfied with the situation. Discussion about the
7 details of the social worker's reservation would suggest
8 that it is around the male carer's behaviour to her some
9 years ago. It was noted that there is another social
10 worker involved with the family with another placement
11 but Miss Macdonald is not sure of her feelings regarding
12 the male carer."

13 Then it goes on:

14 "The position regarding adoption hasn't progressed
15 since the last review and this is of concern to the
16 chairman. The way forward would seem to be to seek
17 further opinions on the male carer from the other
18 workers in the family and the chairman has agreed to
19 organise this. In the meantime, on the assumption that
20 the further opinions will suggest that there is no
21 reason not to proceed with the adoption, Miss Macdonald
22 should continue her preparations for this. If she feels
23 unable to do this because of her concern about the male
24 carer then she should discuss with her senior
25 transferring the case."

1 It appears that the social worker has some
2 unspecified concerns about the male carer, which relate
3 to the way in which he'd behaved a few years previously.

4 A. (Witness nods)

5 Q. Do you have any comment or reflection on how that is
6 dealt with in the course of this review?

7 A. Unsatisfactorily would be my statement. I think clearly
8 there has been something in Miss Macdonald's
9 interactions with the male carer that has given her
10 cause to question is this the right environment for
11 'Anne-Marie' to be living within?

12 We also have to recognise that 'Anne-Marie' would be
13 approaching her 14th birthday at the point of this
14 review, which is really quite old for an adoption to be
15 progressed and what were 'Anne-Marie's' views herself
16 about adoption at that point in time? And just given
17 the sense of identity and the sense of history that she
18 would have had, I think there's a sense that actually
19 because Miss Macdonald was dragging her heels, my words,
20 that we should just move the case to somebody else was
21 not really addressing the issue.

22 It's not really actually trying to understand what
23 is going on here. Yes, there may have been
24 a performance issue in relation to Miss Macdonald, but
25 actually she may well have had legitimate concerns and

1 I would have had wanted to have understood as the
2 chairman what those would have been fully myself rather
3 than just seeking others' views on their own.

4 Q. I think there was this suggestion that there would be
5 a second opinion sought. However, if we move on to
6 page 11 --

7 LADY SMITH: I have to say, Graeme, I was puzzled at the
8 mixed messages towards the end of that note -- sorry,
9 can we just go back to it for a moment? Down to where
10 we were. Yes, stop, that's lovely, thank you.

11 On the one hand it seems to be recognised that they
12 have to find out more from people they call the other
13 workers in the family and that's going to be organised.
14 Now they don't yet know what those people are going to
15 say and what the judgement is going to be on the basis
16 of whatever they say.

17 However, in the meantime, Miss Macdonald's got to
18 carry on with all her preparations for adoption, because
19 one can assume that the opinions will suggest there's no
20 reason not to proceed with them. It's not right, is it?

21 A. No, it's not right. Absolutely. You know, I think
22 without having -- as I said in my response to Ms Innes,
23 that I think without truly understanding what
24 Miss Macdonald's reservations were, you know, and my
25 sense would be as this was a man who was quite

1 belittling of women and an understanding of that, then
2 where does that leave 'Anne-Marie' within the context of
3 the placement?

4 LADY SMITH: Thank you.

5 Ms Innes.

6 MS INNES: Actually if we stay with this document at the
7 bottom of the page it says:

8 "NB. I met with Mr McKenzie, senior social worker,
9 Mrs McLennan, social worker, and her senior Mrs Sloan on
10 22 March to seek further opinions on the carer."

11 If we go on to the top of the page:

12 "Neither Mr McKenzie nor Mrs McLennan had any
13 reservation about the male carer along the lines
14 expressed by Miss Macdonald, it was felt like a further
15 delay on the adoption of 'Anne-Marie' is not only
16 harmful to 'Anne-Marie' herself but is also confusing to
17 the carers and the other placement in the family at
18 present. It was therefore felt strongly that
19 Miss Macdonald had to pursue the adoption as soon as
20 possible or transfer the case."

21 So there seems to have been a discussion with these
22 people and it's not necessarily clear from this the
23 extent to which they had been involved with the male
24 carer.

25 A. No. My knowledge of one of the individuals would be

1 that she would have had -- Mrs Sloan would have been the
2 team manager for the fostering service for an extensive
3 period of time and would have probably known the male
4 carer through that, through her oversight of that team.

5 Q. Then if we move on to page 11 we see a letter from
6 Mrs Sloan to the social work manager at the time and
7 there's reference to the particular placement and it's
8 saying that the carers are having a difficult time. If
9 we see:

10 "The other issue is an awkward one, but both
11 Mrs McLennan and I feel it cannot and should not be
12 avoided any more, the problem of course is that of
13 'Anne-Marie's' adoption or more appropriately the lack
14 of progress towards that goal. 'Anne-Marie's' adoption
15 had been spoken about for years and Mary Macdonald has
16 continually stalled in proceeding."

17 It talks about some financial issue and then in the
18 final paragraph it says:

19 "I said to you earlier that Mrs McLennan and myself
20 had been involved in some discussion with Mr McKenzie
21 and Mr Atkinson about this but there is still no
22 movement. I know we are just passing on our concern to
23 you but do feel the department should be aware of what
24 really is extremely bad practice. Perhaps it might be
25 possible for you to discuss it with Malcolm MacPherson

1 and he could take it in hand to do something."

2 This seems to be the head of the fostering team
3 reporting a concern about Mary Macdonald's work to
4 somebody -- well, to -- who was the person, if we could
5 just scroll back up a wee bit. I think it was
6 a Ms Christie who was maybe the social work manager and
7 then she refers to a Malcolm MacPherson. Do you know
8 who that would have been?

9 A. I am not aware of who Moira Christie or Mr MacPherson
10 were. These are names that are not familiar to myself.
11 Predate my time with the organisation.

12 Q. If we move on to page 12 we see a memo from
13 Mr MacPherson:

14 "I have been informed that this child could be
15 adopted by this couple but no progress has been made.
16 As a matter of urgency ..."

17 He's dressing this to Mr McKenzie, with a copy to
18 Miss Macdonald.

19 "... can you let me know why Miss Macdonald has not
20 proceeded with the mechanics of this. If there is no
21 satisfactory reason then this case will be transferred
22 to someone else who will do the necessary. Please let
23 me know on my return from holiday."

24 I think if we move on to page 15, there was
25 a meeting which took place and Miss Macdonald says that

1 she wasn't involved in that. She wasn't invited or
2 informed and she refers back to a meeting on 22 March.
3 So that sounds like the meeting that we saw referred to
4 earlier, which was with Mrs Sloan and others and
5 Miss Macdonald wasn't involved in that so she's
6 expressing some concern and she says:

7 "With regard the report for review there seem to be
8 so many people involved who obviously know as much or
9 more than I do that I do not see myself competent to
10 write a report, nor has much notice been given to do the
11 same."

12 Again, if we move on to page 16, there's a summary
13 prepared by Miss Macdonald in August 1984 where she
14 talks about having considerable contact with the family.
15 In the final line she says:

16 "A culmination of interference, hassle and
17 inefficiency on my part indicate that the case would be
18 handled better if transferred."

19 This seems to indicate some issues in relationships
20 within the department and might reflect on the culture
21 of the workplace at the time. Do you have any thoughts
22 on that?

23 A. I think your observations are valid. I think from
24 the -- not this current page, but the previous one,
25 I think that Miss Macdonald would reflect in her

1 correspondence that she felt undermined by not being
2 included within a meeting with regards to a child for
3 whom she was the allocated social worker. As such,
4 I would have expected Miss Macdonald to have the closest
5 and fullest understanding of that young person's needs,
6 wishes and views regarding the plan for her.

7 So again, it's almost as if the outcome was
8 achieving adoption rather than actually achieving what
9 was best for 'Anne-Marie'.

10 Q. In terms of the way in which things are being expressed
11 in the workplace and the sort of animosity between the
12 various people sending memos to each other, how do you
13 guard against that, because it would seem that that
14 could impact negatively on the welfare of children?

15 A. I think the same applies today in terms of the sending
16 of emails. When you put something in writing they can
17 be read in many different ways and inferences taken
18 which are not intended. For me, we need to talk to each
19 other, we need to actually verbally speak around a table
20 and actually thrash something out: what is going on?
21 What is the issue? How do we resolve it and how do we
22 move forward? And in this instance there was a meeting
23 that attempted to do that where actually probably the
24 key person was actually not included.

25 Q. If we move on to look at the evidence of another witness

1 with the pseudonym 'Julie', who gave evidence on
2 Day 317, 'Julie' was in a placement with carers and
3 during the course of her evidence it was noted that the
4 male carer was 68 when she was placed and I think she
5 felt that the carers were very old. I think she called
6 them granny -- the female carer granny, at least.

7 Do you have any reflections in relation to that, the
8 age of the carers? Is that at the older end of what you
9 might expect?

10 A. I think we have to think of the needs of the child when
11 we're placing a child within a fostering family, and
12 certainly a couple in this instance in their late 60s
13 would not generally have the energy, the get up and go
14 to meet the needs of a young person placed with them.

15 The other reality is that actually most people
16 coming forward to foster do so when their own family is
17 at an age and stage where perhaps they are less -- there
18 is less hands-on care required and so often can be, you
19 know, that bit -- when I say older, perhaps not within
20 a biological sort of relationship age span, ie 40s and
21 50s caring for younger children around that. That's the
22 reality of what we get when we recruit foster carers.

23 But nonetheless, we do need to think about how will
24 that carer be in terms of physical health, emotional
25 health, readiness to care for the needs of a child

1 placed with them in its entirety.

2 I think calling a foster carer granny is also
3 something I would make comment on. I think that's not
4 something we would encourage at all. It blurs
5 boundaries, it blurs the understanding of relationships
6 at a time when a child is removed from their birth
7 family, placed into a fostering setting, to call this
8 strange new person granny is, I think, confusing.

9 I think we should encourage children to call foster
10 carers by their given name, and if the child so then
11 chooses over time to refer to them as something
12 different, then that's something else altogether.

13 Q. 'Anne-Marie' also told us that she described being --
14 sorry, 'Julie', I mean, sorry.

15 'Julie' told us that they were crammed into a room.
16 She described four girls being in bunk beds in a room
17 with very little space and that they weren't able to
18 associate with friends and they had to sort of stay
19 about the house, I think.

20 Again, is that an area of concern, making sure that
21 a child has enough space for themselves?

22 A. It's certainly not -- it wouldn't happen today. We
23 would want to ensure -- we always ask that a foster
24 carer has a spare room to give to a child when they are
25 coming forward to foster. If they have a spare room and

1 it's a big enough space, they might take a sibling group
2 of two children of the same gender, you know, but
3 certainly four young people in one room would not be at
4 all what I would expect at all today or indeed even
5 then.

6 Q. Then if we can have a look at the records here,
7 ABN-000002443, page 1, we see the first entry,
8 9 November 1993, the social worker says that she:

9 "Visited 'Julie' at foster home. 'Julie' appeared
10 more relaxed. Anxious to show me her life story book.
11 This document details all that had happened to her since
12 she came into care."

13 Then she says:

14 "No mention was made of the reasons for that and she
15 made it clear that her mother would like to see her more
16 frequently but that she had to fit visits in with her
17 shifts. Discussed meeting with her after the review and
18 agreed to collect her from school and take her to lunch
19 one Tuesday."

20 There the social worker seems to be suggesting that
21 she's going to see the child outwith the foster home.

22 I think if we scroll down to 25 January 1994, we
23 see:

24 "Visit to 'Julie' at foster home. She seemed quiet
25 and agitated but was not forthcoming with any

1 difficulties. So many people in the house that it is
2 difficult to have a private conversation. Told her
3 I would be seeing her mother tomorrow to explain to her
4 about parental rights. Arranged to meet her in school
5 lunch hour."

6 Again here I think we see the social worker noticing
7 that there might be issues and trying to speak to the
8 child about it. Is that the sort of thing that you
9 would expect to see happening?

10 A. Yes. I would expect social workers, when they are
11 visiting a child, to arrange visits so that they cover
12 a range of contexts, seeing how the child is within the
13 foster placement, seeing -- certainly seeing the child
14 in a space that's private outwith the foster placement,
15 generally just engaging the child in as natural a way as
16 possible, but yet always ensuring the child feels at
17 ease to say anything that they want to without it being
18 potentially upsetting or difficult for others to
19 overhear that.

20 Q. If we look on to page 2 on 7 February 1994, we see that
21 there's a phone call from 'Julie's' guidance teacher:

22 "Phone call from 'Julie's' guidance teacher
23 concerned that 'Julie' appears to get very little
24 freedom to go out with her own friends. 'Julie' anxious
25 that the female carer not be told of this phone call."

1 Then the social worker visits the foster care on
2 pretext of telling her about her visit to 'Julie's'
3 mother:

4 "Suggested it was about time that 'Julie' started
5 showing signs of independence and instead of going out
6 with the group at weekends should be encouraged to do
7 her own thing. Denial of any difficulty with this."

8 Here it looks like there was a concern about 'Julie'
9 not getting out with her friends, as she said in
10 evidence, and the social worker did seem to try to
11 tackle that with the foster carer whilst respecting what
12 'Julie' had said in relation to not telling the female
13 foster carer.

14 A. I would expect that to have been the case, yes.

15 Q. Then I think you know that in this case there was
16 a report to a guidance teacher that the male carer had
17 touched her inappropriately and I think action was taken
18 after that by the Local Authority; is that right?

19 A. That's correct, yes.

20 Q. Was 'Julie' removed straight away?

21 A. She was.

22 Q. Was there a full child protection investigation?

23 A. My understanding is yes.

24 Q. Okay. Do you have any knowledge if these carers were
25 allowed to continue fostering after that or not?

1 A. I don't to hand, no.

2 Q. Okay. But in any event, in relation to 'Julie', she was
3 removed from the placement and I think within the
4 documents that we have, the Local Authority was aware
5 and dealing with the risk to other foster children in
6 placement?

7 A. Absolutely, and again if we have felt it necessary to
8 remove 'Julie' on the given day that she made her
9 statement, then again I go back to my earlier comments,
10 we should have been considering the vulnerability and
11 risk to any other child in that household at that point
12 in time. And clearly, you know, clearly there would
13 have been an investigation to take place in respect of
14 'Julie's' statements and that happened, but certainly we
15 would have -- we needed to ensure that other children
16 were safe and protected.

17 Q. We're going to move on now to the evidence of
18 an applicant with the pseudonym 'Sarah', who gave
19 evidence on Day 318. There are a number of issues
20 arising from 'Sarah's' records, so if we look first of
21 all, please, at ABN-000002445, page 1.

22 This is a memo from 10 February 1976 and it's noted
23 that on 4 February 'Sarah's' social worker had called at
24 the nursery school at the request of the school.

25 "She was informed that 'Sarah' had bruise marks

1 a fortnight previously, and that there had been one
2 other occasion when bruises were noted. 'Sarah' had
3 also been absent from school on several occasions."

4 Then there was a discussion about this the next day,
5 they felt they couldn't do anything about the bruising
6 two weeks previously. The social worker would make
7 a normal visit to the foster carer to observe the
8 situation in the home, to see if the child was happy and
9 also to see if the foster carer made any complaints
10 about the child.

11 Secondly, the school was to be requested to notify
12 immediately if there were further bruising.

13 Then (c) they were to advise the health visitor of
14 the school's concern.

15 It looks as though those actions were decided upon
16 on 5 February. However, we know that there was then
17 a case conference on 12 February, if we go on to page 2
18 we can see that that occurred. That seems to involve
19 the supervising social worker and various other people
20 within the social work department and people from the
21 school and the health visitor. So these seem to be the
22 people involved.

23 This record was looked at during the course of
24 'Sarah's' evidence, so I'm not going to look at it again
25 in detail, but perhaps if we go to the end, which

1 I think is on page 3, and if we look at the conclusions
2 it says that (1) the situation was one which aroused the
3 anxiety of all who were involved with 'Sarah'.

4 Thought that it might well be that this was a child
5 at risk, but there were insufficient grounds for the
6 child's immediate removal from the foster home and this
7 would not be in the child's interests at this stage.

8 Thirdly:

9 "The meeting had highlighted the previous lack of
10 co-ordination between all those involved and in view of
11 the difficulties of acting in retrospect it was
12 emphasised that immediate action should be taken in the
13 event of any further incident involving a suspected
14 injury to the child."

15 I think that's reflecting back on the fact that
16 although there was a report, it was reflecting back on
17 something that had been observed two weeks previously?

18 A. (Witness nods)

19 Q. Would you now expect to be alerted straight away if
20 bruising was seen on a child, for example, at nursery?

21 A. I would, yes, and certainly that -- I'm aware that
22 nursery staff and indeed teaching staff are required to
23 undertake annually sort of child protection awareness
24 raising training.

25 Q. Then if we go over --

1 A. Can I just make one comment in relation to that? I do,
2 however, struggle with the sense that actually this
3 child was seen to be at risk within the foster placement
4 but yet we felt it safe -- felt it appropriate to leave
5 the child there. If this was a child in a foster
6 placement, I can't understand for me the legal basis to
7 actually we could have moved that child, we could have
8 referred the child back to a Children's Hearing if the
9 child was subject to a supervision order. There is no
10 basis for us not to have been able to move the child to
11 a safe place.

12 Foster care must be safe. If a child is deemed at
13 risk, we should not be leaving a child in that
14 situation.

15 Q. Then if we go over the page to page 4, there's again
16 reference to authorities, contacting the GP and social
17 work department immediately. The social worker should
18 visit fortnightly and it says:

19 "The headmistress and staff were anxious that the
20 foster mother should not know that they had reported the
21 bruising, but were told that if it happens again they
22 will have to be involved."

23 Are there any issues arising from that?

24 A. I think it's not uncommon for other professionals to
25 feel that they are seen to be telling on -- whether it's

1 a parent or whether it's a foster carer in this
2 instance, that actually they would want to preserve
3 their relationship with the parent or with the foster
4 carer.

5 I think for me, openness and transparency has always
6 worked best and that actually these things tend to come
7 out and so therefore if you just keep it as a secret it
8 just has more of an impact on the relationship you have
9 with the individuals involved, so for me I think it's
10 about having the professional confidence to actually own
11 your concerns and share your concerns.

12 Q. Then there's reference to the health visitor visiting
13 regularly, approximately monthly, "... and tackling the
14 problem from the point of view of the foster carer's own
15 health".

16 I think we heard in evidence that she -- well, the
17 understanding of 'Sarah' was that she had certain health
18 issues and was taking Valium for a period of time. Do
19 you have any comment in relation to that perspective?

20 A. Strange. I think again here we are, we're putting the
21 health of the foster carer before the health of the
22 child. We would certainly look for foster carers to
23 have an ongoing medical assessment as to their fitness
24 to foster. We do that every three years or more, as
25 circumstances required.

1 If a foster carer has been prescribed Valium,
2 I would want to understand what is the health reasons
3 behind that and how does that impact upon her capacity
4 to foster.

5 Q. Then at point 7 it says:

6 "The social work department will look carefully at
7 this foster home and the number of children placed
8 there ..."

9 So obviously she wasn't the only child there.

10 "... and in any event were to be considering whether
11 in view of 'Sarah's' age and the possibility that this
12 was now to be a long-term placement, it was appropriate
13 for her to remain with the foster carer."

14 It seems to be, well, we'll think about whether she
15 should stay here or not, but that's an issue for another
16 day, as it were.

17 A. That would appear to be the case as well. This is
18 clearly -- and again, from reading all the testimonies,
19 and reading the records, the absence of -- you know,
20 restrictions on the numbers of children in foster
21 placements is again highlighted here, that I think, you
22 know, foster carers were approved as foster carers
23 without a sense of how many for, what age range would
24 they be most suited for and the type of placements that
25 they would be looking to take, whether that's planned,

1 long-term or an emergency, and here we have a sense of
2 a carer just being approved and, you know, sometimes we
3 would overfill that household.

4 Q. Okay.

5 If we can move on, please, to page 5, I think we see
6 another case paper, it's not clear of the context of
7 this but it's setting out some of the background and we
8 understand the date of this is 18 August 1976. So that
9 was in February 1976 and now we're moving forward to
10 August.

11 If we could look, please, at page 6, there's
12 a paragraph towards the bottom of the page which begins:

13 "[Blank's] behaviour is now described by the foster
14 carer as 'mostly good' ..."

15 That's 'Sarah's' behaviour.

16 It says:

17 "... she is a subdued and moody child with a
18 tendency at time to withdraw into a corner making
19 sucking movements with her lips. She appears disturbed
20 at any change of routine ..."

21 Talking about wet by day and night.

22 "Her previous health visitor described her as
23 a 'pale, nervy child, always appearing tired'. The
24 headmistress at the nursery school which she had
25 attended from summer 1975 described her as a nervous

1 child who got upset if she had any kind of accident at
2 school, but also said she had blossomed while at nursery
3 and seemed happy there. Though she would cling to
4 a particular teacher in an attention-seeking way.
5 Recently 'Sarah' has undergone hospital investigations
6 on account of her tendencies to vomit after meals and
7 her failure to gain weight, but no physical cause has
8 been found for this and she has to return for further
9 investigations in October. The foster carer feels that
10 at times 'Sarah's' sickness is self-induced. In
11 general, on the surface 'Sarah' presents as a seemingly
12 deprived, clinging little girl, who is very easily
13 hurt."

14 There are obviously a number of issues arising from
15 that. So there appear to be concerns about 'Sarah's'
16 behaviour and presentation to the extent that she's
17 described as "seemingly deprived". Again, going back to
18 what you said a moment ago about a child at risk in
19 foster care, here there appears to be a presentation of
20 this child which is very concerning?

21 A. Absolutely. I think this is not typical behaviour.
22 This is a child who is highly anxious. This is a child
23 who would appear to be -- you know, making sucking
24 movements with her lips, that would be for me suggestive
25 of self-soothing, she was trying to soothe herself from

1 whatever past trauma/current trauma, I'm not clearly
2 able to say, but nonetheless her behaviours would
3 certainly merit much greater consideration and
4 questioning as to again the externalisation of this by
5 the foster carer as being self-induced. 'Sarah' would
6 have been at this point in time four or five years of
7 age. You know, it would not be, in my opinion, usual
8 for a child to make themselves sick to the extent that
9 they actually are being described here. This is a very
10 young child we're talking about here. 'Sarah' was only
11 four at this point in time. We're talking about a young
12 girl who is nervy, her pallor is pale. You know, she is
13 appearing tired. Why? Those are really significant
14 observations which require a greater certainty as to
15 what's behind them.

16 Q. We also see what the foster carer's attitude, she's the
17 one who's saying that the sickness is self-induced and
18 would that also raise a concern?

19 A. It certainly shows a lack of understanding of the
20 child's needs at best, you know, and -- but it may also
21 suggest other issues. A deflection away from other
22 issues.

23 Q. If we go on to page 7, in the final paragraph of this
24 document it says:

25 "'Sarah' would seem overridingly to need someone who

1 can be sensitive to her unspoken needs and who can give
2 her the degree of individual attention, which the female
3 carer, who declares herself only happy when occupied
4 with four young foster children in addition to her own
5 three ..."

6 That's the number of children.

7 "... can patently not give. Clearly, however,
8 a further placement for 'Sarah' and her sister at this
9 stage cannot be undertaken without considerable
10 forethought and investigation."

11 There seems to be a recognition that this carer
12 can't give 'Sarah' the attention that she needs.

13 A. Absolutely. Caring for seven children is a monumental
14 task and never mind for a child who will have
15 experienced some element and some degree of trauma and
16 requires a greater level of sensitivity. I would have
17 thought we certainly would have been looking for
18 a much -- with greater urgency a placement for 'Sarah'
19 and her sister to be given a much more one-to-one
20 experience within a fostering context.

21 Q. Then we know, and we've already seen in 'Sarah's'
22 evidence, that the social worker wrote to a consultant
23 psychiatrist, a Dr Lowit. Seeking advice about the care
24 and the placement and essentially whether the placement
25 should continue. If we can look on, please, to page 11,

1 we see a response from Professor Lowit on 5 October 1976
2 and if we scroll down he says he saw them together with
3 the female carer:

4 "... and also spent some time with 'Sarah' by
5 herself and had a subsequent interview with the carers."

6 It refers to the people within the household at that
7 time and it also refers to the carer having previously
8 taken children for short-term fostering.

9 "However, 'Sarah' and her sister were placed with
10 her from the outset on a long-term basis."

11 So that's his understanding of the set-up.

12 If we can move on to page 12 and then the last
13 paragraph of that page, he says there:

14 "There is little doubt that the non-accidental
15 injury alert raised by the nursery in relation to
16 'Sarah' played an important part in undermining the work
17 that is being done for these children, and it was
18 unfortunate that you had to start your work at this
19 juncture under the cloud of these unsubstantiated
20 allegations."

21 So he appears to be of the view that the allegations
22 that were made right at the start that we saw in
23 February, that that's a problem?

24 A. He's certainly phrasing it in that way, that it's
25 a barrier to work being undertaken with the children.

1 That should never be seen as the case. A non-accidental
2 injury alert -- and it was more than alert. This was
3 a school who observed bruising, they maybe didn't
4 reported it in a timeous manner, but nonetheless they
5 observed bruising significant enough to remark upon.
6 You know, again we have to remember we're talking about
7 a four or five-year-old child here. That type of
8 bruising would not be commonplace. It either suggests
9 a lack of care or something more significant.

10 Q. Then if we just go on over the page in the final couple
11 of sentences, he says:

12 "From our conversation I take it that the children
13 will stay with the foster carers and I hope we can go
14 ahead with making arrangements for play therapy."

15 His suggestion, we see it further up the paragraph,
16 that he agreed with the foster carers that it would be
17 traumatic to move the children from their care.

18 So his advice to the department at that time was
19 that the children should remain where they were, but
20 that there should be some play therapy undertaken.

21 A. Yes.

22 Q. If we go on from that, we know that there were various
23 other concerns raised over time, and again they were
24 gone through in 'Sarah's' evidence so I'm not going to
25 go through all of that but repeated concerns about her

1 presentation and behaviour.

2 If we could move on to page 54. This is
3 18 November 1980, and it says:

4 "I received an urgent telephone call saying that
5 'Sarah' had been found with bruises and would have to be
6 inspected. This came from the Mastrick office because
7 I was elsewhere at the time. The nurse had been seeing
8 'Sarah' and noticed this bruise and told her superior
9 and it went to Ms Abel of the community health
10 section who contacted Betty Thompson. The whole thing
11 had therefore gone to quite a senior level.

12 "I could not get hold of Miss Reid until 1.30 after
13 her lunch hour but when I spoke to her she said that
14 there was a bruise on her cheek and there were grip
15 marks on her arm, but it did not sound to me [then
16 I think there's a typo] like battering. It is not the
17 kind of bruises that I would associate with NAI
18 [non-accidental injury] or even cause for anxiety,
19 because of all the background I said I would come see
20 'Sarah'."

21 Any reflections on that?

22 A. I would not agree with the assessment being put forward
23 in that paragraph. Grip marks are a non-accidental
24 injury, there's no doubt about that. For a child again,
25 we're talking about a nine-year-old now, you know, to

1 grip their -- around that, a bruise on a cheek, again
2 not a common place for a child to pick up a routine
3 bruise would be my sense of experience around that.

4 So again, two injuries which would both be, in my
5 opinion, suggestive of a non-accidental injury. Yes,
6 requiring fuller investigation, but nonetheless that
7 would be my sense. So I would not agree with the
8 assessment being put forward in this paragraph.

9 Q. The social worker also seems to be making an assessment
10 before she's seen anyone. This is from a telephone
11 conversation.

12 A. Yes.

13 Q. Then she goes on to talk about speaking to the acting
14 senior. They agreed to go to the school. She didn't
15 feel that the foster carer "could cope with us going to
16 look at 'Sarah's' bruises at her place".

17 Then she explains some of the background to the
18 senior and she then goes on:

19 "Concerning the marks she had apparently told the
20 nurse that she fell down the stairs and then said
21 something about [I think the carer's daughter] and her
22 mum and stopped. However, she told me that she had
23 bumped her cheek against the rail on her top bunk, which
24 seemed quite reasonable. It was a straight mark that
25 would try in and certainly not done with a hand or fist.

1 The grip mark was quite bad but 'Sarah' does bruise and
2 was quite consistent with somebody trying to keep her
3 under control."

4 I think, pausing there, you've already said that
5 a grip mark isn't a non-accidental injury?

6 A. (Overspeaking)

7 Q. So keeping her under control in that way is not
8 acceptable.

9 A. No. Considerable force will have to have been applied
10 to hold her in a grip position to keep her under
11 control. So again I would be concerned. That wouldn't
12 be practice that I would accept or condone in any
13 circumstance.

14 Q. Then it says:

15 "'Sarah' said that she had been making a noise in
16 her bedroom and the daughter had come in. I asked if
17 she had been capering and she said she was and I got the
18 impression that the daughter had been having a bit of
19 a time trying to control her, although I think the
20 foster carer will give me the right story when I see
21 her."

22 A. Sense of responsibility being placed onto another child,
23 the foster carer's own daughter, to manage 'Sarah's'
24 behaviour, and indeed an overconfidence in the foster
25 carer's honest position within the account that she

1 would give around it.

2 So I think again for me we haven't been curious, we
3 haven't been putting the child's needs at the forefront
4 of our intervention on this instance.

5 Q. Then it says that the male carer had been through in the
6 other room but the daughter:

7 "... does a lot of looking after the children
8 because she likes it and it was quite natural and she
9 went through to the bedroom to see if there was any
10 problem. As I thought, there was no question of
11 ill-treatment of 'Sarah' that I could see. Mr McKenzie
12 was looking at the marks and making notes but did not
13 attach undue significance to it. Her story sounded
14 reasonable enough."

15 It appears that the social workers had taken a view
16 from their own assessment of the bruises?

17 A. There was a preconceived sense of what was going to be
18 said before the conversation was had, from the way that
19 it is written in front of me just now.

20 LADY SMITH: Yes, she actually says, "As I had thought".

21 A. Yes.

22 LADY SMITH: Or, "As I thought", and we know from what she
23 said earlier that she didn't think there was anything in
24 this.

25 A. No.

1 LADY SMITH: So she was looking for confirmation of her
2 initial response?

3 A. There was no professional curiosity, no concern for the
4 child being at the forefront of the concern around this
5 as well, so really not acceptable.

6 MS INNES: My Lady, I'm not quite finished with the records
7 for this applicant, but --

8 LADY SMITH: I wonder if we should take the break anyway.
9 Graeme, we usually take a break about this point in
10 the morning. If it would work for you to do that just
11 now, we will --

12 A. Thank you.

13 LADY SMITH: -- and come back in about 15 minutes or so.
14 (11.33 am)

15 (A short break)

16 (11.51 am)

17 LADY SMITH: Are you ready for us to carry on, Graeme?

18 A. Happy to do so.

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

21 MS INNES: Thank you, my Lady.
22 If we can go back, please, to ABN-000002445 and can
23 we move, please, to page 55. This is 19 November 1980
24 and it's the day after the incident that we looked at
25 before the break where bruises had been seen with a grip

1 mark, and this is in respect of records in respect of
2 'Sarah'.

3 On 19 November 1980 it says:

4 "Telephone call from Bill McKenzie [I think we saw
5 was the senior social worker] to get one or two details
6 about 'Sarah', because he will be reporting to
7 Betty Thompson [who I assume is somebody higher up]. He
8 still felt that a great deal had been made of a fairly
9 normal situation and did not feel that any action should
10 be taken at this stage although of course there will be
11 a conference about 'Sarah'."

12 A decision seems to have been taken to have
13 a conference, although the senior social worker is
14 suggesting that what we've seen is a normal situation?
15 Do you have any comment on that?

16 A. I just refer back to what I've previously said. I think
17 this is not a normal situation. I think it's
18 a situation of concern. And, again, my concern would be
19 is that hierarchically we're pushing a position down,
20 which is not enquiring enough of the child's
21 circumstances.

22 Q. And then it goes on:

23 "I spoke to Mrs Innes [who we understand is the
24 health visitor] and said what I thought about the
25 bruises just in practical terms. I felt again that she

1 wasn't very sympathetic at all seeming to attach a lot
2 of importance to the lack of care which she seems
3 convinced that 'Sarah' is experiencing. For instance,
4 she was exclaiming in dismay that it was the daughter
5 that was looking after 'Sarah', without seeming to
6 understand that it was perfectly normal for the male
7 carer to be in the house and the daughter doing a lot of
8 the actual caring. However I did not speak for very
9 long saying that it will all be gone into when we have
10 a conference."

11 We do see concerns being raised there about lack of
12 care from a health visitor, but it appears that the
13 social worker doesn't seem to agree with those?

14 A. That would be my reading of that paragraph and I would
15 share your concern about it.

16 Q. Then the next day, 20 November 1980, there's a home
17 visit to the carer. She's described as being "obviously
18 pretty down". There's then reference -- she then says:

19 "'Sarah' had told her on Tuesday that I had been up
20 looking at her books and in fact although I did not
21 realise it to begin with, the foster carer did not
22 realise that I had been called to look at the bruise."

23 So the foster carer doesn't seem to be clear as to
24 the visit to 'Sarah':

25 "She told me about Monday as I knew she would."

1 There's reference to 'Sarah' being:

2 "... out of her bed again raking she thought among
3 the daughter's things."

4 This note goes on to talk about the child raking
5 about, getting out of bed and raking about. Is that the
6 kind of behaviour that might be concerning?

7 A. It would indicate disturbed sleep patterns, it would
8 indicate that she doesn't feel confident to look for
9 things when others are up and about, so those are
10 concerns that I would have, yes. It would not be
11 normal, nor the term "raking", but nonetheless
12 I understand the points being made.

13 Q. Then the next paragraph begins:

14 "Later on, somewhere around 11 pm, the carer had
15 heard 'Sarah' out of bed, creeping around the room, and
16 had gone in and put her back to her bed and said she
17 would see her in the morning and she did not want to
18 create any disturbance to the other children late on
19 night. However on Tuesday morning after breakfast she
20 had dragged 'Sarah' through to the kitchen and shut the
21 door so that the little ones didn't see and given
22 'Sarah' a smacking for her behaviour the night before.
23 Racking around is one of the things that we are trying
24 to stop with 'Sarah' and it's important that she was
25 punished for it. Having done it straight away, I think

1 that the female carer felt that that was the end of the
2 matter although she was wanting to speak to me about it.
3 It is something we are trying to stop."

4 So the reaction to this disturbed behaviour seems to
5 be to punish the child and that seems to be being done
6 with the support of the social worker.

7 A. Absolutely that's what that reads to me as suggesting.
8 It's certainly not practice that we would recognise
9 today. We're very clear that physical chastisement of
10 children has long since been, you know, now prohibited
11 by foster carers. And certainly clearly the law now,
12 you know, prohibits that as well.

13 So absolutely it's wrong on many accounts. The fact
14 that it was used as a means of discipline and the fact
15 it was being condoned in itself is worrying.

16 Q. Then she says:

17 "When I spoke about the grip marks I said I thought
18 it had probably the daughter had been having difficulty
19 getting 'Sarah' back to her own bed and that would have
20 caused it but she said that her daughter never touches
21 'Sarah' because of the background and complaints that
22 there have been in the past and she was quite sure it
23 was herself on Tuesday morning because she had dragged
24 'Sarah' through to the kitchen."

25 So the carer gives the explanation I think that the

1 grip marks have arisen from her dragging the child
2 through to punish her in the morning for getting up in
3 the middle of the night.

4 Then she says:

5 "... the carer herself and been angry with her and
6 'Sarah' always struggles very fiercely. It was
7 therefore not surprising that there was grip marks.
8 What I felt was although there was no question whatever
9 of any lack of care of 'Sarah', it was disappointing
10 that 'Sarah' herself had to be racking around again and
11 this was the real problem, not that that had been taking
12 up the attention of all the outsiders."

13 A. Complete displacement of where the real concern was.

14 From the reading of this, it would suggest that the
15 female foster carer in this instance had lost control
16 and was physically dragging 'Sarah', which caused grip
17 marks to appear and bruising on her arm. Again there
18 was a sense from the social work department of condoning
19 that and again it was about more trying to prevent this
20 racking behaviour, stopping that was being more of
21 a concern rather than actually trying to understand what
22 was behind this, nor indeed the response of the foster
23 carer. The foster carer's response was wholly
24 inappropriate, 'Sarah's' behaviour was not.

25 LADY SMITH: What do you take from the note that "'Sarah'

1 always struggles very fiercely"?

2 A. This is not the first time it's happened.

3 LADY SMITH: Thank you.

4 MS INNES: We would understand I think from the records that

5 this social worker was 'Sarah's' social worker as well

6 as working with the foster carer.

7 A. (Witness nods)

8 Q. There doesn't seem to be any separation of the roles,

9 although her focus seems to be very much on the carer.

10 Is that something that's changed over time?

11 A. It certainly has. So we very much would want the child

12 to have their identified social worker whom they can

13 build a relationship with and sustain with. We would

14 want the foster carer to be having a supervising worker

15 to oversee and support their care of the child or

16 children in their care, so there is that separation of

17 responsibilities, which I think is absolutely critical.

18 Q. Okay. The records go on from there and again we looked

19 at them during the evidence of 'Sarah', with continued

20 concerns being raised and ultimately -- and decisions

21 being made essentially to keep 'Sarah' in placement

22 because she'd been there for so long by this time, and

23 there's also some reference in the records to, well,

24 we've not met the threshold for removal from birth

25 parents, so we can't remove 'Sarah' from this foster

1 carer. Do you have any comment on that approach?

2 A. We should be setting a higher standard of expectation
3 for children who are in our care. We recognise that
4 parents will be stressed at various points in their care
5 of children. Parenting's not an easy task. I say that
6 as a parent. But nonetheless, there is more you can
7 condone and recognise within that parental relationship.

8 With a foster carer, I think the expectations have
9 to be much clearer around that.

10 And putting myself in 'Sarah's' shoes here just now,
11 if her social worker is more aligned to her foster
12 carer, then who does she have that's safe to speak to in
13 her world at that point in time as well? So this is
14 a girl who potentially feels that she has got nobody to
15 turn to. What that would probably suggest to me is she
16 just closes down further and further events are just
17 suppressed within herself as well. What's the point of
18 telling if nobody's going to actually listen to her?

19 Q. We know ultimately that 'Sarah' was removed I think in
20 1981 from this placement, but that appears to have been
21 described as the decision of the carer, it's described
22 that she couldn't cope any more and she asked for
23 'Sarah' to be removed and the placement came to an end.

24 I'm going to move on to another passage of evidence
25 and we heard evidence from an applicant with the

1 pseudonym 'Kelly', who gave evidence on Day 324. Her
2 foster carer, who has the pseudonym 'Eleanor', gave
3 evidence on Day 331.

4 I think in the course of this evidence we heard that
5 over the course of the foster carer's time as a foster
6 carer, she'd had I think over 300 children in placement
7 with her. And she often provided emergency and
8 short-term care.

9 I wonder if we could look, please, at ABN-000002451,
10 which are excerpts of the records for these foster
11 carers.

12 It starts with a summary of the time that these
13 carers were approved, so they were approved in 1985
14 until 1996. They offered temporary or emergency care to
15 a large number of children and were also approved as
16 permanent carers for a child. That child had been
17 placed with them on a temporary basis in 1991 and they
18 applied for a custody order, which was granted.

19 Just pausing there, you mentioned earlier in your
20 evidence, Graeme, that you were aware, I think, possibly
21 from this case and another, which we'll come to, that
22 there was no limit on placement numbers. There was
23 a combination of children being in long-term care and
24 carers offering emergency and short-term care. What are
25 your reflections on that type of system?

1 A. I think it's -- upon reflection, it certainly doesn't
2 meet the needs of children. It's more -- you know, and
3 again we were not being considerate in terms of doing
4 that. I think what it then meant is often it was any
5 bed in a storm and I think that's not an appropriate way
6 to treat the placement of children and I think then we
7 recognise -- and some of my reading would be suggesting
8 these are not foster homes, these are almost children's
9 homes, and again I think a sense of when you have four,
10 five children, six children living in a placement
11 together, all with competing different needs, then
12 I think you're asking a foster carer an impossible task
13 and I think therefore that we haven't served the
14 children well with whom we placed.

15 Q. If we scroll down a little, we see a paragraph
16 beginning:

17 "In February 1996 ..."

18 This explains how their time as foster carers came
19 to an end and it says:

20 "... a foster child made allegations against their
21 son, and although following police investigation no
22 action was taken, this incident distressed the family
23 greatly."

24 It then says:

25 "It was necessary during the course of the

1 investigation for four foster children living with the
2 family to be moved and the carers were unhappy with that
3 decision."

4 Then I think they made the decision to cease
5 fostering and resigned.

6 A. (Witness nods)

7 Q. Is that something that tends to happen if there's
8 a concern to the extent that children are removed before
9 a decision is made about whether the carers should
10 remain as carers or not, they resign?

11 A. Yes. I think it sometimes does. I think that sometimes
12 we will not accept a resignation. We would want to go
13 through a process of ensuring that consideration was
14 given to the circumstances in which they intimate their
15 resignation, but nonetheless that we are ensuring there
16 is a record of the circumstances by which they have
17 come -- I would acknowledge that reading the materials
18 that I have in preparation for today that perhaps was
19 not always the case in the past.

20 Q. If we could look, please, at page 6 of this document,
21 this is a link worker's report, so this would be the
22 social worker for the foster carers and this is a review
23 in 1995. If we scroll down to what the foster carers
24 had been used for and it notes:

25 "At present they have the following children living

1 with them ..."

2 And we see five there, but number 3 is twins, so
3 that's six children living with them. We can see that
4 their dates of birth are between -- sorry, that's the
5 dates of placement. One is longer term, so has been
6 there since 1992, and the others have been placed during
7 the course of 1994 and 1995. So there seems to be
8 a variety of length of placement as well.

9 It also notes:

10 "Children have been with them much longer than was
11 originally anticipated."

12 And is that an issue?

13 A. Yes. I mean I think it is an issue and it possibly
14 still is an issue in that the planning for children can
15 take longer than -- often the plans for children are
16 unknown at the point when they come into care, often on
17 an emergency basis, and then it takes time to assess
18 whether rehabilitation to parents is viable and
19 achievable. If not, is the child able to be placed
20 within the extended family? If the child's not, then
21 again what is the long-term plan for that child, whether
22 it be long-term fostering or adoption or whatever is
23 appropriate to the child's needs in that circumstance.

24 So I would accept that actually when we speak about
25 temporary placements just now, which is what we would

1 often do, temporary could be a couple of weeks, could be
2 a couple of nights, but it also could be a couple of
3 years as well and that -- we try to help foster carers
4 understand that the planning processes of children are
5 not certain and actually in committing to taking on
6 a child you are committing to taking on until that
7 uncertainty is made certain in terms of what that plan
8 for that child would be in the longer term.

9 Q. If you have to change a foster carer's approval to go
10 outwith their registration criteria, for example, how is
11 that currently dealt with in Aberdeen?

12 A. So currently it is dealt with through a representation
13 to the fostering panel and their approval is to be
14 amended through that process. There are circumstances
15 where we may want to, for example, if another child --
16 if a sibling of a child who is already in placement is
17 born and that child is then -- if we want to place the
18 child with their sibling and that puts them over the
19 numbers, we can do that through an emergency basis and
20 it would be the service manager with responsibility to
21 authorise that, but very much with the expectation that
22 a presentation to the fostering panel is made within
23 12 weeks of the child being in placement.

24 Q. Is the service manager the agency decision maker or not?

25 A. No, I'm the agency decision maker.

1 Q. But the way in which you deal with an emergency is that
2 it would be dealt with by the service manager?

3 A. Correct.

4 Q. If we go on to page 7, it refers there to summary of
5 AF10s, and I think these are reports by placing social
6 workers following the conclusion of a placement?

7 A. AF10s are submitted for each foster carer review. So
8 every time a foster carer's review is undertaken on
9 an annual basis we would seek an AF10 or a report from
10 the child's social worker to comment upon the
11 suitability of the placement from the child's
12 perspective. And an AF10 is that report, but it's
13 a report from the child's foster carer on the
14 suitability and appropriateness of the placement.

15 Q. Is that something that you still do?

16 A. Yes.

17 Q. You mentioned it needs to be completed for the review.
18 Do you ask the child's social worker to complete it
19 straight away and pass it to the fostering team or not?

20 A. We would -- in the build-up to the annual review of the
21 foster carer, then we would ask for the children who are
22 in placement to complete this report. For a child who
23 has left placement, following the leaving of the
24 placement the child's social worker is requested to
25 complete a report commenting upon how suitable the

1 placement actually was.

2 Q. I think we just heard other evidence where perhaps
3 a Local Authority found that those end-of-placement
4 reports weren't being completed quickly enough?

5 A. I would agree.

6 Q. And that was an issue, I think, that they were looking
7 at to alert the fostering team to any patterns or
8 concerns.

9 A. I think that is a challenge.

10 Q. Okay. If we look here at paragraph 4 it says:

11 "There are no recent AF10s as either children have
12 only stayed a few days or they have not moved on. Two
13 separate complaints have been made against the female
14 carer smacking the children.

15 "The first complaint was not made on an official
16 basis and when I discussed this with the carer she
17 assured me that she does not smack and is well aware of
18 the social work department's 'no smacking policy'.

19 "The second complaint was made via the children's
20 rights officer and was investigated by Kate Ramsden,
21 social work manager, and myself. Mrs Ramsden has since
22 confirmed in writing that she could find no evidence to
23 support the allegations."

24 We're going to look at that in a bit more detail
25 because there are other documents in relation to that.

1 As far as the response to the first complaint is
2 concerned, do you have any reflections on the way in
3 which it appears to have been dealt with?

4 A. I'm not sure what is meant by "was not made on
5 an official basis". I would be speculating beyond where
6 actually I feel safe to do so about what that might
7 refer to. But nonetheless, I think any information that
8 comes to the attention of the link worker, in this
9 instance, should be considered as official. It should
10 be recorded as such. Yes, the context of the
11 information, how it came to their attention, sure,
12 I have no problem with that, but nonetheless it is
13 an official information. It is information that we need
14 to acknowledge.

15 Q. Then if we move on to page 8, and the bottom of that
16 page, the question:

17 "Do you feel this family is being used
18 appropriately?"

19 It says:

20 "The family have continued to offer a valuable
21 emergency service although they have four children in
22 longer-term care. At times I have become concerned
23 when, due to them being experienced emergency carers,
24 their household becomes overcrowded with up to five
25 children sharing a bedroom."

1 We've obviously heard some evidence about this
2 household and the accommodation that was available for
3 the children. This seems to be raised I think in
4 a report for the review of the foster carers. Is this
5 something that you would expect to be interrogated and
6 dealt with?

7 A. Yes, I would, and certainly with having five children
8 sharing a bedroom, where's the sense of privacy?
9 Where's the sense of identity? Where's the sense of
10 just having some space to do that? I'm not clear from
11 this whether or not these are children of the same
12 gender or otherwise, but again, I think even if it's
13 five boys or five girls, I still think it's highly
14 inappropriate for them to be sharing such a bedroom.

15 Again I go back to my earlier point. When you're
16 caring for that many children, then where does that
17 sense of homeliness feel? Where does that actual sense
18 of a foster home -- it becomes more of a children's home
19 in many respects as well.

20 Certainly overcrowding -- and again reading from
21 other testimony given by other witnesses, then again
22 this is not the only instance where I think we have
23 overstretched the carer. We have asked too much of the
24 carer. We have therefore then undermined any chance of
25 appropriate care being provided to the children in their

1 care.

2 Q. Then if we can move on, please, to page 13, so this is
3 going back to look at the allegations that were
4 investigated by Kate Ramsden. This is a memo to
5 a Mr Atkinson, who is Divisional Director, from
6 a Mr Hamilton, Deputy Director of Operations, on
7 5 July 1995 and refers to the children's representation
8 officer's complaints about foster parents and he says:

9 "I have had four matters raised by the children's
10 representation officer about a foster carer. I realise
11 the numbers of children accommodated by her, both
12 currently and over the years and of the service which
13 she has provided. Nonetheless the matters related below
14 require to be fully and properly considered."

15 Then there's reference to, at (i), somebody
16 overhearing a residential -- well, I think this is
17 a children's representations officer overhearing
18 a residential worker speaking about the carer
19 accommodating a lot of children and the implication
20 being that the house was overcrowded and that she wasn't
21 a particularly good carer.

22 At (ii) a phone call received from a social worker
23 because a child who she was responsible for had asked
24 her if foster carers were allowed to smack children, and
25 explained that this carer had smacked her.

1 It says:

2 "The child chose not to formally complain although
3 the social worker spoke with her line manager and they
4 then spoke with the Homefinding team. Apparently the
5 Homefinding team (not specified whom) had spoken to the
6 carer about it but she claimed she could not remember
7 the incident."

8 So I think that might be the unofficial complaint
9 that we saw reference to.

10 A. So it's not unofficial.

11 Q. So it's not unofficial, you're saying.

12 Then (iii) a child indicating that a former foster
13 carer had hit her, so again this is 'Eleanor'.

14 "It is alleged that she had slapped her once and
15 punched her once. She told her social worker but she
16 thinks her allegations hadn't been believed."

17 I think within this bundle we see a note that the
18 social worker didn't believe those allegations.

19 And then at (iv), over the page the same child
20 reported that somebody else who stays with 'Eleanor'
21 said that "he didn't want to return to his foster home
22 because he might be hit by the carer, implying that he
23 had been hit before:

24 "According to our records, he is still resident with
25 'Eleanor'. He does not know about the other child's

1 allegations and he has not made a complaint.

2 "These matters are obviously extremely sensitive but
3 nonetheless we need to take appropriate heed of the
4 allegations. I think we need to involve staff who are
5 outwith the Homefinding Team to follow up on the
6 statements and discuss them with the foster carer and
7 for the Homefinding staff to offer support while this is
8 happening. We may also need or want to involve the NFCA
9 [National Foster Care Association] Mediation Service."

10 We'll come in a moment to a response to that, but in
11 terms of the way in which Mr Hamilton was suggesting
12 that the allegations be dealt with, do you have any
13 comment on that?

14 A. Comments -- my comments would be is there's a sense
15 within there that there is a lack of objectivity from
16 the Homefinding team to the role and care provided by
17 'Eleanor' -- if that's the right pseudonym?

18 Q. Yes.

19 A. And I think given that this is not just a one-off
20 occasion, that he's listing four separate instances
21 where there is quite significantly called into question
22 the care being provided and the abuse reported against
23 'Eleanor' by not one child but by a number of children,
24 so I think it's right that it was independently
25 considered. I think it's right that the children's

1 workers were involved. I think it's appropriate to
2 involve the mediation service to ensure that the foster
3 carer themselves had somebody they could turn to to
4 speak about what was happening in the course of the
5 investigation.

6 Q. Then if we look, please, at page 12, we see a memo of
7 11 July 1995 to a social work manager, Trevor Hart, from
8 Susan Sloan, who is the senior social worker in adoption
9 and fostering. I think she was the team leader in that
10 team; is that right?

11 A. Team manager, yeah.

12 Q. She refers to the children's representation officer's
13 complaints about foster parents and she says:

14 "I am very concerned about this memo and the
15 proposed action and would want to make the following
16 comments:

17 "1. I really don't know how one can pursue
18 'allegations' which have been overheard. Surely if
19 residential workers or others had genuine concerns they
20 would have passed these on via their line manager.
21 Otherwise it can only be considered as gossip."

22 Any comment on that?

23 A. I would disagree strongly. You can pursue allegations
24 that are overheard. You can go back and you can trace
25 where the origins of those and actually understand what

1 the workers have overheard.

2 I think it's unnecessarily defensive. I think that
3 again it's asserting a position that is aligned to the
4 foster carer and not aligned to the child or the
5 children, in this instance, who were in the carer's
6 care.

7 Q. We know that the allegation that was overheard was in
8 relation to overcrowding, which is obviously something
9 that the fostering team were aware of.

10 A. Mm-hmm.

11 Q. Is there a sense that because 'Eleanor' was providing
12 a valuable resource to the department that the team
13 wanted to protect that, wanted to make sure that they
14 had availability?

15 A. I'm sure that was a consideration, as I'm sure it's
16 a consideration as to what we would do with the children
17 if we began to reduce the numbers of children in the
18 placement to a more appropriate number, where would find
19 the resources to do that? There was probably
20 resource-driven thinking in that comment as well, so
21 absolutely, I'm sure that was a reflection.

22 Q. Then at 2 she notes the concerns that were discussed and
23 that the link worker had discussed them with 'Eleanor',
24 who had denied smacking the child:

25 "Our understanding was that it wasn't being taken

1 any further."

2 Again we've heard in evidence from other Local
3 Authorities as well about the importance of following up
4 on an allegation and then taking a note of the outcome
5 and the fact that that's not the end of the matter, it
6 is going to rest there on the carer's file.

7 A. I think it's important that allegations, whether
8 substantiated -- or allegations which are deemed
9 unsubstantiated are recorded on a carer's file so there
10 is a chronology of those.

11 I think in this instance as well what we've got is
12 an accumulation of concerns, which in themselves may add
13 up to something more concerning as well, so I think it's
14 important that each of those factors are layered on top
15 of one another.

16 Q. Then at 3 she says:

17 "I have no knowledge about the girl's allegations."

18 So these were allegations made to the children's
19 representation officer:

20 "There have never been discussions with the team.
21 Obviously you will remember the child and her running
22 off. To my knowledge this was the main issue in the
23 placement."

24 Then she says:

25 "I am very surprised at the comments relating to the

1 other boy (although of course they do not come directly
2 from him). The boy and his sister have done well at
3 'Eleanor's' and Nancy Couch [who must be another social
4 worker] visits regularly. And another [the link worker]
5 in fact tells me he says he wants to stay ..."

6 So she seems to raise some issues about her view of
7 what the children themselves might say or how they might
8 behave.

9 She then says:

10 "I really would question whether we can treat the
11 bulk of the above as complaints, since most of the
12 allegations are third-party comments so even although
13 they are third-party comments, nowadays would they be
14 followed up?

15 A. Yes.

16 I mean I think there is an over-defensiveness here
17 of potentially that the staff whom she has
18 responsibility for but also for the carer as well for
19 not following through on the concerns in relation to
20 'Eleanor's' care of the children, all concerns,
21 whether -- you know, would be recorded and we would be
22 addressing them directly with carers.

23 Firstly, just from an openness and transparency
24 perspective, but actually again, as you say, it's that
25 actual recording of those on the record is important as

1 well.

2 Q. I mean this is the view of Susan Sloan, but we do know
3 that there was the investigation, which we'll come to in
4 a moment, so I said "nowadays" in my question, but at
5 the time these allegations were followed up?

6 A. Yeah.

7 Q. She then says:

8 "I also feel if there are any concerns they should
9 be passed on to the team [I think that means her team]
10 and pursued by them. I would see that as our job in
11 terms of working in partnership with carers, looking at
12 how they are handling situations, obviously we have to
13 discuss with carers both positive and negative comments.

14 "I am anxious to know how the division is going to
15 deal with these allegations as it certainly has
16 implications for future practice."

17 I think that's going back to who is investigating
18 and, as you said, the defensiveness within the team,
19 that it should be their team that deals with it?

20 A. For me it's about listening to the children and so
21 therefore we should be taking a child lens and so
22 therefore the workers for the children should be
23 considering the substance of the child's comments,
24 statements and views. Statement in relation to
25 overcrowding, it's patently just a fact. Actually five

1 children in one room is a fact. That is overcrowding in
2 anybody's interpretation. And so therefore, for me,
3 there's a need for the Homefinding Team to be involved,
4 absolutely, but actually the investigation should be
5 a child-led investigation, not a foster carer-led
6 investigation.

7 Q. Then we know that Kate Ramsden carried out
8 an investigation. If we go to page 15. She's described
9 as a social work manager. I don't know if you know
10 where she was in terms of social work. Was she in the
11 Homefinding Fostering and Adoption team or was she
12 outwith that team?

13 A. She would be outwith that team.

14 Q. She says that she followed up on the various allegations
15 and at (i) she refers to the issue about overcrowding
16 and she says that she is:

17 "... concerned that a complaint has been pursued on
18 the basis of a conversation which was 'overheard' ...
19 clearly any concerns which the worker might have had
20 were insufficient for the staff concerned to raise them
21 directly through their line manager. I do not feel this
22 issue can be addressed on this basis."

23 So she does seem to take the view that because it
24 was overheard it wasn't -- it shouldn't be addressed,
25 but as you've said, it was a fact, the overcrowding was

1 a fact?

2 A. Yes.

3 Q. Then she says:

4 "It must be acknowledged, however, that 'Eleanor'
5 has from time to time accommodated a fairly high number
6 of children in her capacity as an emergency foster
7 carer. This has been at times when the pressure on
8 resources has been high, and has generally been for
9 short periods of time. Divisional management has been
10 aware of these situations and efforts have now been made
11 to ensure that the carers are not approached in
12 emergencies when they already care for their agreed
13 number of children."

14 Although the agreed number of children was perhaps
15 quite high as well.

16 A. I would agree.

17 Q. At the conclusion of the investigation -- she
18 investigates the other matters, which I'm not going to
19 go into at this point, but ultimately at page 18 she
20 finds that, in the conclusions, that the foster carer:

21 "... insists that she does not hit her foster
22 children, and is clearly aware that it is not
23 an appropriate form of discipline."

24 She says:

25 "Although it is clearly not possible to refute the

1 allegations I have found no evidence to support these."

2 So the outcome was that the allegations were
3 unsubstantiated?

4 A. The allegations -- that would be my reading of that
5 statement. I think it is however important that it is
6 written in the format that they cannot be "entirely
7 refuted", and I think it's important to have that on
8 record. But I think the other part of that is how --
9 the balance of where do they come down on.

10 Q. I want to move on to the evidence of an applicant who
11 has the pseudonym 'Jess', and her foster carer,
12 Sheila Davies, who we know was convicted, and one of the
13 charges of which she was convicted was in respect of
14 'Jess'.

15 You're obviously aware of the conviction of
16 Sheila Davies, and you provided the Inquiry with some
17 information at an earlier stage in relation to
18 Ms Davies's assessment and some of her files as a foster
19 carer.

20 A. (Witness nods)

21 Q. Perhaps if we can look at that, so if we begin with
22 ABN-0000000254, which is I think an excerpt of the
23 Form F, which is her assessment to become a foster
24 carer.

25 If we look first of all, please, at page 5, we can

1 see at that stage:

2 "Sheila, her mother and son, were living in
3 a two-bedroomed privately rented flat in Dyce. The
4 present situation is temporary until the family are
5 allocated council housing."

6 It talks there about the accommodation and it says:

7 "Should Sheila be approved, she proposes to have the
8 children share a bedroom while she and her mother share
9 a room."

10 So in terms of the accommodation, it does seem to be
11 quite limited.

12 A. I mentioned earlier in my evidence that actually we
13 would currently expect a foster carer to have a spare
14 room to offer for fostering. In this instance, this
15 application would not -- today, this application would
16 not get beyond that point in time. We may well look to
17 support Sheila or somebody in Sheila's circumstances
18 seek a move to a larger council tenancy and then pursue
19 their application, but until that was resolved, then we
20 would not be taking their interest in fostering forward.

21 I read that statement as well and immediately
22 thought, you know, I wouldn't even have begun to approve
23 that, so I hear what you're saying and you're absolutely
24 right to talk about overcrowding right from the get go.

25 Q. Then if we look at "Type of resource" at the bottom of

1 the page, there's tick boxes to say what type of
2 fostering the carer was looking to undertake, and it is
3 noted time limited so it would be emergency in the zero
4 to five age range, either male or female and one child.
5 So that seemed to be her initial application that that's
6 what she was looking to undertake.

7 A. Correct.

8 Q. Obviously things didn't turn out that way. If we can
9 have a look, please, at ABN-000002452. Just bear with
10 me a moment, I'm just going to check the chronology of
11 this. (Pause)

12 If we begin by looking at page 1, this is a review
13 of the foster carer in November 1992. If we look on to
14 the next page, it says:

15 "An early review had been arranged to look at
16 appropriate future fostering placements for Mrs Davies
17 and her family. She had a very difficult period when
18 placements had disrupted and she had to ask for children
19 to be removed. The department felt she needed time out
20 to recover from this and look at options for the
21 future."

22 There was then a discussion about that:

23 "At the review, discussion focused on the
24 problematic placements and what we could learn from them
25 in terms of planning for the future. The common theme

1 in the AF10s was that the department needed better
2 planning with Mrs Davies regarding the kinds of
3 placements she could take on, help her look at her
4 limitations as well as her strengths. Clearly the
5 department had to take some responsibility for
6 overloading Sheila, although she also contributed to
7 this putting herself forward for an extra placement.
8 The department, however, had to guard against taking
9 advantage of Sheila's good will."

10 That again seems to be about number of children in
11 placement.

12 A. (Witness nods)

13 Q. That she was saying yes, but also the department had
14 some responsibility for the types of placements that
15 they were making with Sheila?

16 A. Absolutely.

17 LADY SMITH: There also seems to be at least a hint of
18 blaming Sheila if there is overcrowding. That can't be
19 right, can it?

20 A. I would accept that inference, my Lady. I think you're
21 right. I think that actually we have a duty of care to
22 foster carers. Some would want to stretch beyond their
23 capacity. It's our duty to actually ensure we don't do
24 that, whatever the resource implications are of that.

25 LADY SMITH: You also have a duty towards the children --

1 A. Absolutely.

2 LADY SMITH: -- and if the approach and principle is that
3 there is a limit that you shouldn't breach for
4 a particular foster household, then breaching it
5 immediately implies the possibility the children are
6 going to be at risk.

7 A. I would agree.

8 LADY SMITH: Ms Innes.

9 MS INNES: Thank you, my Lady. Then it goes on to say:

10 "In terms of better planning, it was felt that
11 possibly a younger age group would better fit in with
12 Sheila's responsibilities. Also that planned placements
13 with a clear remit might be more appropriate. In many
14 ways this ruled out using Mrs Davies as an emergency
15 carer -- need people offering a wide age range but more
16 importantly planning and appropriate matching cannot be
17 done. Also, as was clear with the placements of the
18 previous very needy children if they ran off, Sheila as
19 a single parent could not go after them. In terms of
20 some emergency placements, there would be an issue."

21 There seemed to be a recognition that there was
22 a problem with the number of placements that were being
23 made. There was a problem with her being an emergency
24 carer because of the difficulty in matching in those
25 circumstances. Then also that a younger age group might

1 be more appropriate for her, because I think there had
2 been problems with older children.

3 A. That would be my reading of this, and indeed further
4 documents in relation to Mrs Davies.

5 I think for me I feel there is still a lack of
6 evidence base for this. Older children can be more
7 independent in terms of that, younger children can be
8 more hands on, and so therefore again weighing up there.
9 So for me there is a lack of robustness to the
10 assumption and the position that has been reached at
11 this meeting.

12 LADY SMITH: Graeme, in the background, certainly in my
13 mind, there is still the position of Sheila's mother.
14 Was she separately assessed in any way?

15 A. My memory is yes, she was. She was not assessed as
16 a foster carer --

17 LADY SMITH: Right.

18 A. -- she was assessed within the assessment of Mrs Davies
19 as a sort of a support carer to her daughter.

20 LADY SMITH: I see. So halfway house in a way?

21 A. Halfway house. We would have a duty to assess all
22 adults within the household who -- that's a legal duty
23 that we have, you know, to do that, but in this instance
24 it was Mrs Davies putting herself forward as a foster
25 carer within the context of that.

1 LADY SMITH: I see. Of course you routinely assess adult
2 children living in the household?

3 A. Absolutely. And we would do PVG checks on them and the
4 like.

5 LADY SMITH: Is it more unusual to find these circumstances,
6 where the foster carer has a parent living with them who
7 is offering themselves up to give some degree of
8 support?

9 A. Yes, it is, it is more rare. Not uncommon, but much
10 rarer than older children.

11 We certainly encourage foster carers to look within
12 their support network, who are they going to actually
13 reach out to at times? You know, whether that's -- we
14 want to make arrangements as natural as possible, so
15 within their assessment how do we identify who they
16 might turn to if they have to go to an emergency
17 appointment, for example? Is there a neighbour,
18 a family friend, a relative who could come and sit? And
19 we would do some basic checks and some -- meet with that
20 person to ensure their appropriateness of the task, but
21 also being clear what we're being asked for there.

22 LADY SMITH: Thank you.

23 MS INNES: We can move to page 10 of this document, which is
24 the AF10 following the placement of 'Jess' and her
25 brother with Ms Davies and it notes that the placement

1 was in 1995, it's from [REDACTED] to [REDACTED] 1995, and at that
2 time -- well, we can see 'Jess's' date of birth, which
3 was in 1991. Her brother was born in 1983, so he was 12
4 at the end of the placement.

5 It says here:

6 "Unfortunately there were difficulties for the
7 outset of the placement, in respect of 'Jess's' brother.
8 Mrs Davies appeared to show little understanding of the
9 upset following the children's separation from their
10 mother -- who was imprisoned. As early as [REDACTED] [this
11 was the day after the children were placed with her]
12 Ms Davies questioned the need for the children to be
13 placed together. It was suggested to her that this was
14 good practice. I felt that from this point the children
15 were split by her (bad child versus good child), which
16 was exacerbated by her actions when excluding the boy
17 from goodies such as bus trips, barbecue, et cetera.

18 "The boy being outwith school did not help, however
19 a great deal of input was required to support the
20 placement and whilst 'Jess' settled quite well, I felt
21 that the boy's emotional needs (particularly) were not
22 met."

23 He does say "particularly", so I think there's
24 an implication there that although he thinks that 'Jess'
25 settled, her emotional needs weren't met.

1 Then he says:

2 "If anything the placement was rather damaging to
3 this emotional well-being, as he was continually
4 rejected by Ms Davies. Had another resource been
5 available I would have sought to move them on.

6 "I was also somewhat surprised that Ms Davies
7 queried the need for 'Jess' to visit mother for access
8 at Cornton Vale. Again, this is good practice and it
9 appeared to me that Ms Davies was reluctant to confront
10 the distress such contact with mother inevitably entails
11 and thus did not accommodate the children as well as she
12 could have, ie they did not get permission to be upset."

13 Going over the page:

14 "Generally it was my impression that Ms Davies was
15 reluctant to put the children's needs before her own.
16 Whilst I accept the need for foster carers to maintain
17 their own interests and contacts, and the behaviour of
18 many children can be challenging, the social work
19 department pays for a service that I feel Ms Davies did
20 not deliver -- certainly in the case of 'Jess's'
21 brother."

22 Then he refers to some additional information that
23 he passed on to the Homefinding Team following
24 an incident:

25 "Thus, in conclusion, I would not be happy to use

1 this placement again for the reasons discussed,
2 particularly for children aged 11-16 years."

3 So this is in 1995 and it's referring again to the
4 older age group, but yet we saw in 1992 that there was
5 a decision that she should be taking younger children,
6 which then either has been varied or changed or not
7 adhered to, perhaps because he was a sibling.

8 A. It certainly hasn't been adhered to. Why it hasn't,
9 I couldn't say at this point in time. I think your
10 inference around potentially being a sibling is right.

11 I think you're-also right to draw attention to the
12 word "particular", because again for me what would be
13 the impact on 'Jess' of seeing her brother treated in
14 a different perhaps cold manner and that would have
15 an impact on her well-being, emotional well-being, as
16 well. So I think inevitably just even seeing that
17 treatment would have been of concern for 'Jess' as well.

18 Q. Then the final document within this bundle starts at
19 page 3 and this is a discussion I think in relation to
20 the placement of another child in [REDACTED] 1996 and this
21 is from Susan Sloan, who we've already seen mentioned
22 and she says -- who does she address that to, sorry?

23 A. To Graham Rizza, who was our senior practitioner.

24 Q. Yes, so he was a senior practitioner, it says.

25 So was he within the Local Authority?

1 A. Yes, he would have been our case holding social worker,
2 sorry, for a child. He would not have been working
3 within the fostering team. His role would have been
4 a senior practitioner within one of the childcare teams
5 with case responsibility for children.

6 Q. Then she copies it to a review senior. Who would that
7 be? Would that be somebody that would undertake
8 fostering reviews or child reviews?

9 A. Child reviews. Looked-after reviews for children.

10 Q. And then the link worker?

11 A. Yeah.

12 Q. She says in the body of the text:

13 "We've spoken a number of times about our concerns
14 about this -- I shared with you the concerns/complaints
15 from social workers regarding Mrs Davies.

16 "As a result of these there were discussions with
17 Mrs Davies between October and December 1995 in order to
18 review her service as a foster carer ..."

19 At that time there seemed to be a request from this
20 social worker that Mrs Davies be considered as
21 a permanent carer for the child:

22 "... since at this stage the placement seemed to be
23 meeting her needs."

24 It then goes on that the link worker had prepared
25 a report and if we go down to the paragraph beginning:

1 "The adoption and fostering team would therefore
2 support consideration of Mrs Davies continuing to
3 provide care for this child, although we would recommend
4 regular support and contact from yourself would be
5 needed for both the child and for Sheila. Although the
6 placement is working well, Sheila has run out of steam
7 in the past with other teenage placements and ongoing
8 advice and support may prevent this."

9 There seemed to be recognition of an issue with
10 older children.

11 If we move on to page 4, there is consideration in
12 the first paragraph about if she was going to take this
13 child on a long-term basis, she would need to withdraw
14 from emergency fostering. It says:

15 "Initially, however, Sheila stated that she was not
16 prepared to give up emergency to keep this child because
17 she loved emergency work."

18 Then it says:

19 "There were reservations about her ability to
20 persist and cope with problems should they arise."

21 So there seems to be a discussion about varying the
22 type of activity that she was involved in. This is 1995
23 and again in 1992 we saw that she was supposed to be
24 stopping doing emergency work, but she seems to have
25 gone back to it?

1 A. There is certainly an incongruence there. I would also
2 agree with the points there that actually for looking
3 for a sense of long-term permanence for a child being in
4 Mrs Davies's care, what sense does that child make of
5 Mrs Davies continuing to offer emergency placements of
6 children coming and going? It almost undermines that
7 sense of permanence as well.

8 But, again, I would accept that the reflection that
9 a decision was made in a point in time which appears to
10 have gone back on in subsequent years.

11 Q. Then if we move on to page 5, there is again discussion
12 about her continuing. It says:

13 "This became imperative following placements in the
14 summer which proved unsatisfactory and in relation to
15 which an extremely concerning AF10 was received ..."

16 We understand that the AF10 referred to is the one
17 in respect of 'Jess' and her brother.

18 A. (Witness nods)

19 Q. Because it goes down in the next paragraph to say:

20 "Given the grave concerns expressed by
21 Peter MacDonell regarding 'Jess' and her brother's
22 placements and the history of some disquiet over the
23 years and given Sheila's commitment to emergency
24 fostering. Limited accommodation and observed
25 difficulty in coping with and in persevering with

1 difficulties, a thorough exploration was clearly
2 necessary."

3 So it appeared to be that the concerns that 'Jess's'
4 social worker raised about the placement was discussed,
5 at least with Ms Davies.

6 A. Yes, that would be there, but I'm also reading that to
7 say that not -- not with the weight that I think
8 probably was required.

9 Q. If we go on over to page 6, there's a paragraph:

10 "It was put to Sheila that we had to consider
11 carefully the grave concerns expressed in this AF10 and
12 Sheila accepted that there had been other negative AF10s
13 but would feel that there are other positive placements
14 to her credit. Reports over the years, however, have at
15 times queried her commitment, her understanding and her
16 awareness of her limits, and have pointed to
17 institutional practices and queried how much time and
18 space children have in her accommodation. In isolation,
19 concerns have not been major and Sheila has always
20 spoken of fostering as being her niche and has been
21 extremely cooperative insofar as she would invariably
22 agree to take children and thus on one level has
23 provided a valuable service to the department, given how
24 stretched resources have become. There would seem,
25 however, few placements have provided really positive

1 experiences for children."

2 So they seem at this point to be drawing together
3 what they say might be isolated concerns and seeing
4 a pattern?

5 A. That's my reading of that. There's an accumulation of
6 concerns which are questioning the role that Sheila's
7 offering as a foster carer.

8 Q. It goes on in a similar vein.

9 If we could move on to page 8, at the top of this
10 page we see another concern that was being raised, so
11 page 8 begins:

12 "The concern raised here ..."

13 This is in respect of another placement, but it
14 says:

15 "The concern raised here of how much of the
16 children's fostering allowance goes towards their care
17 has been an ongoing one. It was raised with Sheila what
18 extras she had managed to provide for the children
19 during the summer holidays and it would appear they had
20 done little apart from swimming."

21 One of the things that 'Jess' raised was that there
22 wasn't enough food, for example, in the household.
23 So -- you know, and resources were tight. So there
24 seems to have been a concern that although she was
25 getting the fostering allowance for these children, that

1 it wasn't actually being used on them?

2 A. That would be my reading of that statement.

3 There is within the allowances that we provide

4 foster carers we break down roughly in some sense what

5 of that amount, X per cent would be for clothing, for

6 food, for energy, for trips, for pocket money, those

7 sorts of things. It's a guide and it's helped prepared

8 by the Fostering Network around all of that, so it is

9 a guide, but in this instance there is a concern that

10 actually not all the money that we're paying Mrs Davies

11 to care for the children is being spent on the children.

12 Q. We know that issues were raised, as we've seen, but

13 I think that ultimately it wasn't until the 2000s that

14 concerns were at such a level that there was

15 an indication I think that the department were going to

16 potentially de-register Ms Davies?

17 A. (Witness nods)

18 Q. And she resigned in 2003.

19 A. (Witness nods)

20 Q. In terms of any learning from the case of Sheila Davies,

21 I wonder if we could look at ABN-000000494, which was

22 the response that you gave to the Inquiry, and we had

23 been asking whether there was any review after her

24 convictions. It says in the second paragraph:

25 "The charges and subsequent convictions took place

1 in 2018, some 14 years after she resigned as a foster
2 carer. She faced de-registration in May 2003 and
3 resigned prior to this. Prior to Ms Davies's
4 resignation, the council had assessed it wasn't
5 appropriate to place children in her care, due to
6 concerns about her ability ... she hasn't fostered any
7 children since 2003."

8 Then it goes on to talk about how things have
9 changed since that time.

10 I wonder what your view is of the value of carrying
11 out a review where a foster carer has been convicted,
12 even if it's many years after they were actually
13 a foster carer?

14 A. There is always learning, and I think as I mentioned to
15 you even from reading the statements and testimony given
16 by those who have helped the Inquiry, I feel there is
17 still learning that we as an organisation would want to
18 ensure we are taking on board. So I don't think our
19 learning ever stops in relation to that.

20 I think in this one clearly we have a very clear
21 criminal conviction, which also included Mrs Davies's
22 role within a nursery context as well, not unrelated to
23 her fostering activity, but nonetheless slightly
24 different.

25 So, again, it is about understanding that.

1 I think it's also recognising that there's
2 a complexity here. We've acknowledged that Mrs Davies
3 has cared for a vast number of children and we would
4 want to sort of do that, and again -- and over a long
5 period of time.

6 I think there is always the opportunity to look back
7 and think about learning. In this instance, I think as
8 I said here, we wouldn't have even taken Mrs Davies's
9 interest further. She was not only fostering, she was
10 childminding at the same time as well. I think there is
11 a learning in that context, that we don't do that any
12 more. I think there is a clear reference around the
13 numbers of children, the ages of children, which
14 I believe is far more robust than it was then, clearly.
15 You've documented positions that have moved without
16 clear accountability being put in place with regards to
17 those as well.

18 So there is always learning.

19 Looking back over 'Jess's' testimony, you know,
20 there are aspects there which I think that we haven't
21 heard and certainly I would want to look within both our
22 fostering service but also within our children's rights
23 aspect, and I've intimated that prior to coming here
24 today, that I would want to do that within my own
25 services when I get back, building upon the learning

1 that I am taking even sitting here. So I think that is
2 always there.

3 In terms of this, then actually should we
4 formally -- should there be an expectation that formally
5 when a foster carer is convicted of something, if there
6 hasn't been a learning review undertaken? Yes, there is
7 possibly merit in that -- I think not possibly, there is
8 merit in that being a factor that we need to sort of
9 take from this point on and going forward.

10 Q. Yes, so I think you're saying that you plan to share
11 learning from your experience of being involved in the
12 section 21 response and your involvement over the course
13 of the case study and also your reflections on the
14 evidence that we've heard during the course of the case
15 study and you plan to take that forward in due course?

16 A. Yes.

17 Q. Finally, as you know, I wanted to ask you about any
18 lessons to be learned that we've not covered. You've
19 obviously said that there are things to be learned and
20 I wonder if you have any thoughts on what those are at
21 present.

22 A. I think, you know, some of the observations that I have
23 made in reading the materials ahead of today was there's
24 an issue around the retention of records. How are we
25 absolutely ensuring that those are retained safely

1 whilst we provide -- and foster carers are expected to
2 hold -- have a physical space which is lockable within
3 the house. How are we actually ensuring -- so much is
4 electronically managed these days. Are we absolutely
5 clear that our systems and processes are robust around
6 that?

7 I think again it reinforces the need to see children
8 outwith the family home. We have got digital technology
9 these days, the Mind Of My Own app is a means by which
10 children can communicate, older children, particularly
11 those with mobile devices, can communicate directly with
12 their social worker, but actually ensuring that where we
13 are still providing that physical space, and I believe
14 we are, but I think again we want to go back and
15 absolutely ensure that is the case.

16 I think there's always ways in which we can build
17 an assurance around that. I think when allegations are
18 made I think then again that would always result in
19 a referral to the fostering panel again for those -- for
20 the review of the foster carer to be considered, but
21 again how are we actually managing that process?

22 I think there is some learning from 'Jess's' statement
23 and indeed 'Mandy's' statement that I think that we
24 could still take learning from around that as well.

25 So I don't think the learning stops around that.

1 On the final point, around the allowances, we pay
2 allowances. How do we actually evidence that those are
3 actually spent with the way that they're intended to be
4 spent, around that without it becoming that actually
5 we're scrutinising every penny, but nonetheless there is
6 that sense of, you know, there -- I was also struck by
7 the testimony of many of the witnesses just around the
8 significance of Christmas and of birthdays. Again, we
9 provide an extra week's allowance for Christmas and for
10 their birthday so they get 56 weeks' allowance in
11 a year, so the extra four weeks are one for their
12 birthday, one for Christmas and two for the summer
13 holidays, to ensure that there are activities, there are
14 holiday plans over that summer period, around that, but
15 are we really -- do we have the assurance -- now I would
16 accept that 99 -- I would hope the vast majority of
17 foster carers there isn't an issue, but actually how are
18 we assuring ourselves that those additional allowances
19 and those extra allowances and indeed all the allowances
20 are being spent in the purpose which they're intended to
21 be spent?

22 So there are others as well, which now you've put me
23 in the spot saying where they are, I would want to do
24 that. Children's rights is certainly another area. How
25 do we absolutely ensure increasing access and

1 representation within children's rights? Really
2 ensuring the voice of children, where it's
3 independently, needs to be heard is being heard and
4 getting that space for the rights of our children to be
5 fully considered around that as well.

6 Q. I think there were a couple of other things that
7 I wanted to raise with you.

8 One was I think you took from the statements of
9 'Jess' and 'Mandy', they were in care round about the
10 same time and you have some awareness of that, and
11 I think that there were maybe gaps in teams because of
12 absence or people moving on around that time?

13 A. Yes. Just for clarity and for transparency I've not had
14 responsibility for managing 'Jess' and 'Mandy's' cases,
15 but they would have been in the team next to mine and if
16 their manager was on leave or their manager was off sick
17 or there was a gap in their management maybe I would
18 have overseen the work at times of that other team, and
19 I think at times that team did go through challenges in
20 terms of recruitment and in terms of a consistent
21 management figure within there and again I have been
22 left questioning to what extent did that lack of
23 consistent management oversight, my Lady, play a part in
24 us not really being as attuned to 'Jess's' and 'Mandy's'
25 circumstances as perhaps we probably could have been.

1 Q. Then finally another issue is that I think that you have
2 tried to offer to meet with people who've perhaps sought
3 their records and perhaps who you've got an awareness
4 that they've either engaged with the Inquiry or have
5 suffered abuse in foster care and is there anything that
6 you wanted to tell us about that?

7 A. So from the outset we have made it clear that anybody
8 wanting to access their records, it wasn't just going to
9 be a question of just passing them the records. We
10 would want to engage with them to ensure that we
11 identified any support that we could offer to do that,
12 and that would include speaking to myself or another
13 senior manager within the council. That offer still
14 stands.

15 I would accept that actually I think it's only
16 happened in one or two instances so there is maybe
17 something perhaps about how we have put that offer that
18 hasn't been as well received as perhaps I would want.
19 I would want to go back and revisit that.

20 We have also ensured that the staff who have served
21 my services to provide the Inquiry with the papers and
22 information here and have been meeting with those who
23 have wanted access to records, we've ensured them that
24 they have training to be trauma informed around that and
25 I think that's been valuable and appropriate as well, so

1 I think that's certainly something we would want to take
2 on, particularly around our continuous need for those
3 who want to access records.

4 But I would again want to think about particularly
5 for those whose history is there but even those whose
6 history is much more in the past, that if they want to
7 meet with myself, I would be happy to do that. I think
8 we owe it to them. There is learning and we have failed
9 them and I think that we owe it to them to ensure that
10 their voice -- they know their voice has been heard,
11 both in what they have provided the Inquiry and in the
12 changes that we as an organisation have and need to meet
13 going forward.

14 MS INNES: Thank you. I don't have any more questions for
15 you, Graeme.

16 There are no applications, my Lady.

17 LADY SMITH: Are there any outstanding applications for
18 questions of Graeme?

19 Graeme, that completes everything we have for you
20 this morning. Thank you again for coming back to help
21 us further with what you can tell us regarding the
22 responsibilities for foster care undertaken in Aberdeen
23 and focusing on the particular cases that we've asked
24 you to focus on this morning with such frankness and
25 professionalism. I'm really grateful to you for your

1 thoughtful reflections, very open and honest and
2 straightforward. I appreciate very much the tone that
3 you've adopted in doing this.

4 You're probably exhausted now and I'm delighted to
5 be able to let you go. Safe journey back.

6 A. Thank you very much. Thank you.

7 LADY SMITH: Thank you.

8 (The witness withdrew)

9 LADY SMITH: We'll pause now for the lunch break and I'll
10 sit again at 2 o'clock.

11 Thank you.

12 (1.05 pm)

13 (The luncheon adjournment)

14 (2.00 pm)

15 LADY SMITH: Good afternoon.

16 Now we move to welcoming back --

17 MS INNES: Yes.

18 LADY SMITH: -- another Local Authority witness. Is this
19 Kathy Henwood?

20 MS INNES: It is, my Lady, from Fife Council.

21 LADY SMITH: Thank you.

22 Kathy Henwood (sworn)

23 LADY SMITH: When we last met, you told me you were happy
24 for me to use your first name. Is that still the case?

25 A. It is.

1 LADY SMITH: Thank you for coming back today, Kathy. You
2 know the routine, you know what's in the red folder,
3 your Local Authority's documents, thank you for those,
4 and you'll remember also we'll bring documents up on the
5 screen to help you as we're going through your evidence.
6 Otherwise, don't hesitate if you have any questions
7 or if there are things you think we should be asking you
8 that we haven't done, it would all be very helpful to
9 know that.
10 The afternoon session runs from now to around
11 4 o'clock, but I usually take a break somewhere around
12 3.00, which I hope would be helpful, but if you need
13 a break at any other time, please just let me know, will
14 you?
15 A. Thank you.
16 LADY SMITH: If you're ready, I'll hand over to Ms Innes and
17 she'll take it from there, okay?
18 A. Thank you.
19 LADY SMITH: Ms Innes.
20 MS INNES: Thank you, my Lady.
21 Questions from Ms Innes
22 MS INNES: Kathy, you last gave evidence to the Inquiry on
23 Day 296, 19 May 2022. At that time you told us that
24 your role with Fife Council was Head of Education and
25 Children's Services and Criminal Justice Services and

1 the Chief Social Work Officer. Does that remain your
2 role at Fife Council?

3 A. It does.

4 Q. On the last occasion, you explained to us that the Local
5 Authority's response to the Section 21 notice and Part D
6 of that notice in particular hadn't been based on a case
7 file audit but focused on civil claims that the Local
8 Authority had identified.

9 A. (Witness nods)

10 Q. Since you gave evidence, I think you've carried out
11 a file review to give us some more information; is that
12 right?

13 A. That's correct.

14 Q. Can I ask you, please, to look at FIC-000000675. It
15 will come up on the screen.

16 A. Thank you.

17 Q. It should be in the folder as well, it is whatever works
18 best for you, Kathy.

19 Here we have a report submitted by Fife Council in
20 respect of the section 21 notice and it explains that
21 this report has been prepared to supplement information
22 submitted previously and your verbal evidence.

23 A. (Witness nods)

24 Q. Then it goes on to methodology and it tells us that
25 there was an audit of 49 carers' files and 77 children's

1 files.

2 A. That's correct.

3 Q. It then goes on to say that there were no historic
4 fostering panel minutes in terms of paper records; is
5 that right?

6 A. That's correct.

7 Q. Then it says there was a central electronic record of
8 all fostering panel minutes began to be kept in Fife in
9 2006 and from that, it was identified that 67 foster
10 carers had been de-registered over that period.

11 A. That's correct.

12 Q. Then the de-registration panel minutes were reviewed
13 against certain search criteria?

14 A. (Witness nods)

15 Q. There are different bullet points set out there in terms
16 of the search criteria. Can you explain why these were
17 adopted?

18 A. I think what we wanted to do is to do as wide a search
19 but be as pragmatic as we could be. We wanted to
20 understand what was happening, what were the reasons for
21 de-registration and if there was any indication within
22 those minutes that led us to understanding that there
23 was allegations of abuse or allegations of harm that had
24 been the trigger points for de-registration.

25 So we tried to differentiate between different

1 criteria to give us the widest search.

2 I think also within that, if there was anything
3 additional to that, we would have pulled it into the
4 search criteria.

5 Q. For example, in the first bullet point you have one of
6 the search criteria being:

7 "Moderate to serious physical abuse ..."

8 But then you also say:

9 "Or an allegation of physical abuse was recorded as
10 the reason for de-registration."

11 So I wasn't quite clear on why there was this
12 reference to moderate serious physical abuse when you
13 were essentially looking for all allegations of physical
14 abuse. Is that something to do with the way in which
15 things are recorded?

16 A. I think it's the way it was recorded, yes.

17 Q. Then it gives other reasons. So you were looking at the
18 way in which the reasons might be recorded and searching
19 for them?

20 A. Yes.

21 Q. Okay. Then you say in the paragraph below these search
22 criteria:

23 "It was discovered that concerns about abuse or
24 alleged abuse of fostered children were the primary
25 reason for de-registration in six of the cases."

1 A. That's correct.

2 Q. Were you only looking for the primary reason for
3 de-registration or were you looking more widely than
4 that?

5 A. No, we were looking more widely but we saw a primary
6 reason there.

7 Q. Okay. Then:

8 "These six files formed part of the sample audit
9 group along with the respective seven children."

10 So seven children who had been placed with these six
11 carers; is that right?

12 A. Yes.

13 Q. You say:

14 "It wasn't possible to trace a further two noted
15 children by this method as they were identified only by
16 first name on the carer's file."

17 A. That's correct.

18 Q. I suppose that might flag an issue about the way in
19 which records are kept?

20 A. Absolutely. And how we cross-reference records between
21 carers' and individual children's files.

22 Q. So it would be important to have the full names of
23 children and when they were in care with a particular
24 carer?

25 A. Yeah. And dates of birth so we have some identifiers.

1 Q. In the next paragraph you say:

2 "Files were also identified through the record of
3 allegations and concerns held by Fife Council since
4 2015, and Fife Council's notifications to the Care
5 Inspectorate."

6 You then say there were 62 foster carers on this
7 record and 41 of them had been approved prior to 2014.
8 So although this began in 2015 and presumably contained
9 complaints and allegations that were made against foster
10 carers subsequent to 2015, am I right in understanding
11 that this really helped you identify relevant foster
12 carers to look at?

13 A. There would have been foster carers that were registered
14 before 2015, but allegations of harm only presented
15 after 2015, so we were able to do a cross-check there as
16 well.

17 Q. Okay. You say you noticed 41 had been approved prior to
18 2014, so within the terms of reference, and three of
19 those you'd already identified via the other route?

20 A. That's correct.

21 Q. Then you say:

22 "Children who had made the allegations on the record
23 of allegations and concerns were identified, along with
24 others who had been in the placements when the
25 allegations were made. 63 children were identified with

1 that method."

2 As a starting point, you have a complaint against
3 a foster carer. You look at the child who made the
4 complaint potentially and then when you looked at the
5 foster carer's file you were able to identify other
6 children? Is that what you did?

7 A. Yes, we looked at other children that were placed in
8 that foster carer from registration up to the point the
9 allegation was made.

10 Q. Okay. Then you say that you noted four carers' files
11 through the redress scheme, and those were read again,
12 with the eight claimants' files. So was that to do with
13 redress?

14 A. Yes.

15 Q. And an additional -- just pausing there, sorry. Is it
16 definitely to do with redress and not civil claims
17 against the council?

18 A. I would have to check to answer that. It was certainly
19 to do with things that had been raised before, so it
20 wasn't new information to us. If I can clarify.

21 Q. So these were the carers' files that you had considered
22 when you were doing your first response to the
23 Section 21 notice?

24 A. Yes.

25 Q. And I think that was in respect of civil claims.

1 A. Right. Sorry.

2 Q. Then it says:

3 "An additional carer's file was included in the

4 audit on the recommendation from a member of staff where

5 two children were in placement at the time of the

6 allegation. These children's files were also read."

7 Am I right in understanding that to mean, apart from

8 finding material through these searches, a member of

9 staff had knowledge of an allegation that was made?

10 A. A member of staff who was part of the team had extensive

11 knowledge of Fife Council and Fife Council foster carers

12 and children who had been in care and made a connection

13 that we were able to follow up.

14 Q. Okay. Then you say:

15 "Senior managers also took the decision to audit all

16 files on the record of allegations and concerns

17 pertaining to carers from 2014 up to the current

18 day ..."

19 I think although your appendix covers the period

20 within the Inquiry's terms of reference, you did also do

21 a wider search to look at more recent allegations?

22 A. Yes.

23 Q. Okay. If we go on to page 2, the files that you

24 identify were read?

25 A. Yes.

1 Q. Did the file readers have to complete a template or take
2 notes when they were reading?

3 A. Yes.

4 Q. How did that work?

5 A. Yes, they took a template and it was all collated and we
6 had one person who was overseeing it, one manager who
7 was overseeing all the work.

8 Q. Okay. From the file reading -- well, you say:

9 "File readers were also tasked with providing their
10 professional recommendations for future practice in
11 fostering for the Local Authority."

12 So that was an additional stream of work that they
13 had to do. What's been done with the outcome of that
14 work?

15 A. We've developed a separate quality assurance team and
16 we're building the learning and the lessons from the
17 reading of the foster carer files and the wider themes
18 that are emerging around that to do some continuous
19 improvement activity and tightening up on standards and
20 measures in terms of foster care and residential care.

21 Q. Okay. Do you have in a document those recommendations?
22 Have they been collated as yet or not?

23 A. They're still being collated. There's still work that
24 we're doing in terms of themes, not only around foster
25 care and residential care but the wider council and

1 allegations against staff. There are some very common
2 themes that are coming through that that we're trying to
3 collate to be able to give us a really definitive action
4 plan and quality assurance framework and protective
5 framework going forward.

6 Q. If we could move on in this document to page 4, you
7 provide revised or substituted responses to Part D of
8 the Section 21 notice. You say first of all at 5.1:

9 "There is evidence of abuse within the sample of
10 physical, sexual, psychological and emotional nature
11 towards children in foster care."

12 That's what you found from your review; is that
13 right?

14 A. That's correct.

15 Q. In terms of the extent of abuse at 5.2(a), you say that
16 you've given an appendix with the details of what you
17 found and you say:

18 "It is acknowledged that the sample is limited to
19 the available data and the scale and extent in actual
20 terms can't be determined."

21 A. That's correct, and I think one of the things that we've
22 learnt is the need for us to be open and have a single
23 point of contact for people who have been care
24 experienced within Fife, as their accounts may not
25 become open or heard about until much later in their

1 adult life, so there's some work we're doing about how
2 we can keep connected and capture and make it a safe
3 place for people to be able to give their accounts of
4 any experience in residential or foster care.

5 Q. Then you tell us that the basis for your assessment is
6 the audit of 49 foster carers and 77 children. In that
7 sample, you've found 57 complaints in relation to
8 alleged abuse of children in foster care; is that right?

9 A. That's correct.

10 Q. Those complaints were raised against 36 foster carers,
11 you tell us?

12 A. That's correct.

13 Q. Is that 36 individuals or 36 fostering households?

14 A. 36 foster carers, so individuals.

15 Q. Individuals.

16 You say at (e) that you think that there's evidence
17 that four foster carers have been convicted of abuse of
18 foster children. I think you go on to tell us that
19 there were four cases in which the Crown raised
20 proceedings against foster carers, but I'm not sure that
21 there's evidence in your appendix of four convictions.
22 I'm not sure if you're able to shed any more light on
23 that.

24 A. What I can say is that the four foster carers that we
25 identified through this additional work were the same

1 four foster carers that we'd highlighted earlier.

2 Q. Okay. The four foster carers that you'd highlighted in
3 relation to the civil claims?

4 A. Yes.

5 Q. Okay.

6 A. So what I know, sorry, to give a bit more clarity to
7 that, is there was no new carers that were identified
8 through the search that we did, other than those that we
9 presented in the previous section 21. So ...

10 Q. Well, I'm not sure about that because you told us about
11 the conviction of Helen Smith, which was not
12 a conviction that we were aware of prior to your
13 addendum being produced, so that's new information.

14 A. Okay. I'll need to go back and check that, sorry.

15 LADY SMITH: If you're talking about counting four foster
16 carers, you did previously tell us about four
17 complaints -- complaints and civil actions totalling
18 four, but that wouldn't be the same as convictions.

19 A. Okay. So that might be my mistake, so I'll clarify
20 that.

21 MS INNES: Okay.

22 You then say at (f):

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

25 You say:

1 "From the information available in the audited
2 sample, there is sufficient information to indicate that
3 29 foster carers may potentially have abused children in
4 foster care."

5 That's not a finding that they have abused children.
6 That seems to be a reflection that it might potentially
7 have happened?

8 A. Yes. I think the language we've used there is quite
9 careful. So there is information potentially to lead us
10 to that we would have needed to do further assessment
11 and certainly we would work in a different way if we
12 were presented with the same information today.

13 Q. Okay.

14 LADY SMITH: Is another way of putting that that you accept,
15 on the information you have, it would be possible to
16 infer that abuse took place?

17 A. Absolutely.

18 LADY SMITH: That's helpful, thank you.

19 A. (Witness nods)

20 MS INNES: Then if we move on to page 5 at (g) we see that
21 of the audited sample, one complaint was raised in
22 respect of a family member of a foster carer in relation
23 to an allegation of abuse.

24 A. (Witness nods)

25 Q. So all of the others were against foster carers?

1 A. Yes.

2 Q. Okay.

3 If we go back in your response, you also provided us
4 with a revised Part B, so if we look at page 2, at
5 3.1(a) if we scroll down:

6 "Does the Local Authority accept that any children
7 cared for in foster care were abused?"

8 The answer to that is "yes"; is that right?

9 A. Yes.

10 Q. In terms of assessment of extent and scale, you refer to
11 your findings but you acknowledge that the sample is
12 limited.

13 A. Yes.

14 Q. Then in terms of 3.2 where you're asked if the Local
15 Authority accepts that its systems failed to protect
16 children in foster care from abuse and:

17 "As noted previously, the council does accept that
18 at times its historic systems are likely in some cases
19 during the above time frame to have failed to ensure the
20 protection of looked-after children from abuse."

21 A. That's correct.

22 Q. So again the answer to that's "yes".

23 If we go over the page to page 3 where you're asked
24 about the assessment of systemic failures and you say:

25 "There is limited evidence about the extent of

1 systemic failures as much of the policy documentation
2 hasn't been kept."

3 Can you just explain what you're referring to there?

4 A. I think when we look back to previous reviews that have
5 looked at the wider systems, the Anne Black review
6 looking at St Margaret's and Linnwood Hall, there's very
7 clearly systematic issues in there but policies have
8 changed, and so as the policies have moved forward, the
9 old policies haven't been kept so we haven't been able
10 to triangulate back to key periods in time to give us
11 the wider context.

12 So I think that's learning for us about audit trails
13 and being able to give a really cohesive sense of the
14 context we're operating in at any one time.

15 Q. You say then:

16 "It's unclear whether the policy itself wasn't
17 robust enough, the systems and policy were not followed,
18 the policy was robust and systems were followed and the
19 abusers carried out the abuse despite best practice from
20 the Local Authority."

21 Essentially I think you're setting out three
22 different possibilities and you're not clear as to
23 what --

24 A. I think my view would be it would be a combination, and
25 certainly there'd be opportunity within policies or

1 systems in place for those to be navigated through,
2 through harmful adults, by harmful adults and for
3 cultures to develop that don't always look at
4 safeguarding of children over and above the systems that
5 are in place.

6 Q. Then you say at (c):

7 "What is the basis of the assessment?"

8 You say:

9 "The majority of fostering policy in Fife is not
10 available to support a full assessment. It's reasonable
11 to assess that previous systems for approval and
12 supervision were not as thorough as they are today ..."

13 Can you explain that?

14 A. I think at the moment we have fostering panels, we have
15 peer reviews, we have references that are taken for
16 people being recruited to fostering and kinship care and
17 supported lodging provision, and there is opportunity
18 to -- there's independent assessment and there's also
19 regular observations and assessments of people through
20 training and in practice.

21 I think it is quite robust and it is quite intense
22 over a period to be recruited into fostering, be part of
23 a Fostering Network, there's ongoing training available,
24 ongoing scrutiny, and alongside that, children and young
25 people have an independent voice and an independent

1 social worker so they'll be supported through Who Cares?
2 or a rights-based worker as well as their social worker.
3 So I think on that basis there's more scrutiny and
4 there's more eyes and ears around fostering and the
5 fostering arrangements. I still don't think that that
6 can afford us any complacency and I think we really have
7 to build up a profile and really strong clear messages
8 about our position in terms of safeguarding children and
9 young people, their voices being heard, build up
10 chronologies of fostering activities and how foster
11 carers develop in the kind of networks that they keep.
12 LADY SMITH: Kathy, I see what you're saying about the
13 current landscape so far as fostering in Fife is
14 concerned, but is there any good reason why the
15 approaches that you've just outlined could not all or at
16 least some, in some respects, have been implemented
17 before? At earlier stages?
18 A. I think we followed the national guidelines and the
19 national regulations around that, so it's not something
20 that's just developed in response to this. We're quite
21 clear that we -- that's all in place, and when you bring
22 people in to recruitment, into fostering and that's all
23 available, I think it's much more about culture.
24 LADY SMITH: Let me be clear, I'm not trying to get you to
25 accept Fife were at fault.

1 A. No.

2 LADY SMITH: I'm just trying to work out what goes wrong and
3 why it can take so long --

4 A. I know.

5 LADY SMITH: -- for practices to improve and become
6 embedded, when nothing you're saying seems actually to
7 be very difficult --

8 A. I know.

9 LADY SMITH: -- technically, when you think about it.

10 A. I know.

11 I think for us one of the learning is separating out
12 the quality assurance activity so we've got somebody
13 who's external to operational work, somebody who's
14 external from resources and funding and budgets, and
15 somebody who's external to supporting foster carers or
16 supporting children, so that does bring a bit of
17 a critical eye, a bit of an objective eye and a lens
18 into what's happening.

19 I think we've also learnt a really clear message
20 about chronologies for foster carers, so when we get --
21 when children give an account, whatever that account is,
22 that we really take heed and listen to that, try and
23 understand it from the child's experience and report it
24 and record it in a way that allows us then to not just
25 have individual incidents that can kind of become

1 invisible but we have a collective that's wrapped around
2 the foster carer in question, so we build up that
3 profile from different voices.

4 That's something that we haven't done and we are now
5 putting in place.

6 I think also we've leant too much to individual
7 voices and individual responses and we're now into
8 a space where we're saying we've got to get a collective
9 database on allegations against any member of staff and
10 what children tell us in the care that they're being
11 provided, so there is something that's much more
12 cohesive in terms of the data and our analysis of that.

13 LADY SMITH: Thinking of your culture, do you have to be
14 rigorous about recognising the dangers of making
15 assumptions and the importance of recognising where
16 risks lie, even if you don't want them to be there?

17 A. Yeah, absolutely. And I think some of the pressures
18 operationally when you're looking, there's no resources,
19 there's no placements, there's no alternative care
20 arrangements, and you can slip into quite easily
21 something that you wouldn't necessarily have taken in
22 a different operating context, and I think there's got
23 to be checks and balances around that, and we're
24 affording the same kind of scrutiny to kinship carers,
25 supported lodgings, foster carers because we know what

1 our learning is through this and going back through
2 files is these messages are the same. These patterns
3 are the same.

4 So it's us that have got to change to wrap around
5 that, rather than looking for regulation or guidance to
6 inform it.

7 LADY SMITH: Thank you.

8 Ms Innes.

9 MS INNES: Thank you, my Lady.

10 I want to move on to look at the conviction of
11 Helen Smith, which you told us about and if we could
12 look, please, at JUS-000000141. This is a copy of her
13 conviction. We can see that she was convicted on
14 29 April 2016 and sentenced on 30 May 2016 at Kirkcaldy
15 Sheriff Court of two charges of assault to injury.

16 If we scroll down, yes, she was sentenced to
17 a community payback order of 275 hours' unpaid work.

18 If we go on to the charges, Your Ladyship will see
19 that the charges are very complex, and indeed some of
20 them were deleted before the case went to the jury and
21 some were found not proven or not -- they were deleted
22 by the jury, sorry.

23 In relation to charge 1, my understanding is that
24 she was convicted of assault on various occasions and
25 it's in relation to (e), which I'm having difficulty ...

1 LADY SMITH: What we're seeing here is not the final text?

2 MS INNES: No, the way in which we get documents from
3 justiciary varies and particularly in relation to
4 Sheriff Court convictions, quite often they've got
5 handwritten annotations like this, and then one has to
6 look into the minutes to find what the verdict of the
7 jury was.

8 In relation to charge 1, she was convicted of
9 assault on various occasions between the dates specified
10 and it was in relation to (e), which was in relation to
11 removing the child's trousers and underwear and
12 repeatedly striking her on the body to her injury.

13 Over the page at charge 3 -- so charge 2 was not
14 proven.

15 Charge 3, the only parts remaining was charge 3(a)
16 and (e), so an assault on a particular occasion in
17 a motor vehicle and then, at (e), on an occasion
18 assaulting the child and striking her on the head with
19 a mirror.

20 And she was found not guilty in respect of charge 4.

21 If we move on to page 7, I think we see the criminal
22 justice social work report. If we move on in that at
23 page 8, we see I think that Mrs Smith denied the
24 allegations and continued to deny them after trial. If
25 we scroll to the bottom, she says that she vehemently

1 denies that she assaulted or harmed either of the girls
2 in any way during the four years they were placed in her
3 care. She was desperately trying to think about why the
4 girls --

5 LADY SMITH: Can we go down to this text?

6 MS INNES: Sorry, it's at the bottom.

7 LADY SMITH: That's helpful. Thank you.

8 MS INNES: "Mrs Smith denies the charges. She reports that
9 she has been found guilty after trial but vehemently
10 denies that she assaulted or harmed either of the girls
11 in any way during the four years that they were placed
12 in her care.

13 "Mrs Smith explains that she was desperately trying
14 to think why the girls would suggest that she had
15 treated them in such a manner as described in the
16 indictment. They spoke of one incident where the male
17 carer had shouted at one of the girls and smacked her on
18 the bottom as a result of her misbehaving."

19 Just pausing there, I'm assuming that during the
20 period 2008 to 2012 the position would have been that
21 foster carers shouldn't have been using any form of
22 physical punishment on children?

23 A. Absolutely, that's very clear.

24 Q. Then over the page she says at the top of the page:

25 "However, this was investigated at the time of the

1 incident and no action was taken by the social work
2 service at the time."

3 Then she says:

4 "The only other issue she could recall was before
5 she was charged by the police, she had reprimanded one
6 of the girls in what she considered to be an appropriate
7 manner and she was aware that the child seemed very
8 unhappy due to her demeanour. When asked why the
9 victims may have made false allegations about the
10 assaults, Mrs Smith informed me that in her opinion it
11 may have been in relation to that incident ..."

12 That seems to be the way in which she has
13 rationalised the allegations that were made.

14 That's the conviction that you told us about, Kathy,
15 I don't know whether you have any further information in
16 relation to the circumstances of this case or whether
17 there was any follow up or wider review following the
18 conviction?

19 A. There's certainly been a review in terms of the team
20 around the child for the girls involved and I think that
21 one of the learning bits for us is being able to
22 systematically unpick some of the layers, because these
23 girls were seen in various environments by people who
24 were closer to them necessarily than the social worker,
25 and I think it's really important learning that the

1 voice of the child has got to take precedence over
2 anything.

3 So whilst it might not be something that we want to
4 hear or it might not be something that correlates with
5 what we're seeing, that we have to give children
6 opportunity to come out of their care placement to be
7 able to have conversations with people who they choose
8 and that might not just be a one offer, that's got to be
9 an open offer because children give their accounts when
10 they feel safe enough to do so.

11 And there was something particular about this case
12 that although these girls were spoken to and the
13 professional team around the child had eyes and ears on
14 these girls, we hadn't afforded them the opportunity to
15 speak with somebody independent and we hadn't listened
16 to those voices, so there is something really particular
17 that we then need to translate to every other care
18 situation, because we missed something here. And I know
19 the foster carers -- the foster mother is still saying
20 it was in connection to something else and she denies
21 it, she has been convicted, and that's a theme that has
22 emerged through other transcripts that we've read
23 through and through other case records we've read.

24 Q. The period that these girls were with these carers, 2008
25 to 2012, that's again quite recent --

1 A. Yes.

2 Q. -- you know, in terms of the voice of the child being
3 heard.

4 A. Absolutely.

5 Q. That's something that you would think would have
6 developed over time, but issues can still arise even in
7 relation to that?

8 A. Yeah, I think there's something different between the
9 voice of the child informing the planning around that
10 child and us offering children a specific independent
11 safe space to talk, and I think that's the bit that we
12 need to build into care planning and children's rights,
13 because children will only say what they feel safe
14 enough to say and we need to start developing that
15 culture that we've got safe spaces where children, young
16 people or adults can come and talk to us about what's
17 affecting their lives.

18 Q. Have you any thoughts on what that safe space might look
19 like?

20 A. Currently we've linked in with Who Cares? before in Fife
21 we've got rights officers from Barnardo's and actually
22 they're still enmeshed in the organisation of the
23 system.

24 We've set up a quality assurance team, one of those
25 quality assurance workers has got a specific task to

1 link in with every looked-after children whether that be
2 kinship -- in the widest definition.

3 We're also looking at putting in two workers
4 corporately, so outside of social work, to be able to
5 pick up on any allegations against any member of staff
6 and to be a -- champion's not the right word, but
7 an ambassador for the child or children that are
8 involved in that. So we start building up a really
9 strong evidence base of actions, decision making,
10 outcomes, support offered to children and young people
11 and/or adults when they're making -- when they're giving
12 us their accounts and their experience in care or in
13 alternative environments.

14 Q. And --

15 A. If I could just add, I don't think it's going to be
16 a fixable situation. I think it's something we've got
17 to work really hard with.

18 We've also developed Embrace Fife, which is for the
19 care community, and that is very much to build up
20 a community space for people who are care experienced
21 currently or have been in the past, because we know that
22 collective voice will provide a safer space than
23 a professional space for people to come into, and it's
24 about validating people's experiences and validating
25 their voices, and that's the kind of cultural change

1 we're trying to manage at the same time.

2 Q. Just to be clear in terms of the learning that you're

3 talking about that comes out of the conviction of

4 Helen Smith, is that learning that was identified at the

5 time out of her -- you know, at the time that she was

6 convicted? Or is that something that you're looking at

7 now, having reviewed this in the context of this

8 Inquiry?

9 A. I think we did look at it originally but we know we've

10 got more learning to draw from this case and it has

11 parallels with other cases, a Borders case and Edinburgh

12 cases, so we're looking at that kind of wider issues

13 that are happening and making sure that our learning is

14 as robust as it can be and actually translates into

15 meaningful actions for children and young people.

16 Q. Okay. When you say a Borders case and an Edinburgh

17 case, how have you become aware of those?

18 A. Sorry, the national reviews.

19 Q. I see, from the Care Inspectorate?

20 A. The Scottish Borders Review and the Edinburgh Review,

21 which were about staff allegations.

22 Q. Oh yes. So any reviews that have been published --

23 A. Yes.

24 Q. -- you've been looking at that as well, so that's

25 perhaps not specific to foster care?

1 A. It's not specific to foster care, but it's still about
2 allegations against staff --

3 Q. Yeah.

4 A. -- and I think that's -- although it'll be wider than
5 foster care, there is some clear parallels and themes.

6 Q. I see.

7 LADY SMITH: But foster carers aren't your staff. I'm
8 slightly puzzled, because you've said this a few times.
9 Foster carers aren't employees.

10 A. But we -- within the context of care, we would be
11 considering them as the workforce, the staff group. So
12 although we -- because they're not paid a wage, but
13 they're paid to care for children and young people that
14 we place with them and we register them to be able to
15 provide that service. So within that context, we would
16 be looking at them as generally within the staff
17 criteria.

18 LADY SMITH: I see. Because technically they're people with
19 whom you enter into contracts.

20 A. Yes.

21 LADY SMITH: But they only get to do that if you've first of
22 all registered them as people that you're prepared to
23 consider --

24 A. Yeah.

25 LADY SMITH: -- for entering into contracts. But you say

1 you'd regard them as the same category as, for example,
2 social workers or a member of staff in the office that
3 a child goes to try and speak to?

4 A. I use "staff" in a really general term. So it'll be
5 like janitors, it would be like commissioned services,
6 it would be like other educational services, so anybody
7 who's got a role that we pay for or has a connection
8 with children in their care or in their day-to-day work.

9 LADY SMITH: Thank you.

10 Ms Innes.

11 MS INNES: Are you saying, Kathy, that the route might be
12 different, obviously you can take action against a staff
13 member in a different way to the action that you might
14 take against a foster carer. You know, you'd have
15 a disciplinary process for a staff member potentially,
16 but for foster carers there's a different --

17 A. A de-registration process for foster carers.

18 Q. Yes. But is it when the allegation effectively is made,
19 you're looking at how you respond to that in the same
20 way, whether it's --

21 A. Yes, and looking at the child concerned and any other
22 children that might be affected, so it's about having
23 that wider lens, not just looking at that one incident.
24 And it's looking at -- because we know from other areas
25 where there have been concerns that there are some

1 similar -- well, if you're an adult who's wanting to be
2 harmful to children, then you can navigate into all
3 kinds of different professional spaces and spaces to
4 access children, so it's looking at recruitment, it's
5 looking at assessment, it's looking at observation, it's
6 looking at standards, it's looking at practice
7 standards, it's looking at review mechanisms, voice of
8 the child within that.

9 Q. Okay.

10 If we can move on to some other areas which we
11 discussed in your evidence previously, and I think you
12 were going to check. If we can look, please, first of
13 all at FIC-000000504, page 16 we see a heading there,
14 "Numbers".

15 If we scroll down in "Past", you were asked:

16 "How many children did the Local Authority
17 accommodate at a time in foster care and in how many
18 placements?"

19 Particularly in relation to the period the 1990s to
20 the 2000s, so thinking up to 2014, you said there that
21 no information was available. I think at the time
22 I asked why that was, why you didn't have information
23 available, because we understood that Local Authorities
24 had to provide numbers of children in care perhaps to
25 the Care Inspectorate or to the Scottish Government

1 I think through something called the children
2 looked-after statistics?

3 A. Statistics, there has been the CLAS statistics.
4 I haven't brought them with me today. I can certainly
5 furnish that information. I know our current data
6 around that and I know that we benchmark it across other
7 Scottish authorities.

8 Q. Okay. So you think that you will be able to get that
9 information?

10 A. It's CLAS data, I will be able to get that information.

11 Q. I think you were also asked some questions about whether
12 the numbers you were looking at included or excluded
13 kinship care?

14 A. Yes, they excluded kinship care.

15 Q. Okay. Is that the way in which you were asked to
16 provide the information to the Scottish Government?

17 A. It is, although we keep data now around a range of
18 different types of care arrangements, so informal
19 kinship, kinship, formal kinship, residential and
20 fostering, internal foster and external foster care, so
21 we've got much more -- we've got richer detail around
22 where children and young people are being cared for.

23 Q. Okay. So you may be able to provide a breakdown of that
24 for more recent years?

25 A. Absolutely. Yeah, for the last five years, certainly.

1 Q. Okay. Thank you.

2 If we could look, please, again just to go back to
3 something that we were looking at before, so
4 FIC-000000086, page 48. This is material that came out
5 of the review. It talks about it following allegations
6 made in Fife and also the Edinburgh Inquiry.

7 At page 48, paragraph 2.16 there was a table there
8 indicating numbers of allegations of abuse that had been
9 investigated in the period April to September 1999.

10 The first one there was an allegation of sexual
11 abuse by an adult family member of the carer and it
12 notes that the child was moved and the alleged abuser
13 was charged. I think you were going to try to identify
14 or see if you could identify what that case was?

15 A. I haven't been able to identify that case and I know
16 we've looked at different -- we've looked at the dates,
17 we've looked at the timings, so there's nothing that's
18 taken us to a particular case and we've had nothing back
19 from the police that's been able to validate that.

20 Q. Okay.

21 Then again I was asking you questions by reference
22 to this document and if we look I think on to page 51.
23 At the bottom of that page we were talking about
24 recruitment and selection of foster carers and at the
25 bottom of the page there was reference to the Family

1 Placement Team currently producing documentary guidance
2 to describe the process and criteria that are used in
3 implementation, and then over the page in the
4 recommendation it says:

5 "The guidance will form part of the overall
6 development plan for foster care services in Fife
7 currently being produced by the Foster Carers'
8 Consultative Group. It is recommended that this process
9 be reviewed and updated every two years."

10 You confirmed that Fife has written guidance and you
11 said that you weren't sure about how often it was
12 reviewed. Is that something you've been able to check?

13 A. I have. It's certainly updated regularly and in terms
14 of a full review I think that's where we have started on
15 that journey now. I wouldn't say it's been fully
16 reviewed every two years, but that's certainly a measure
17 we're putting in place. So it's updated in terms of any
18 best practice changes or any guidance or legislation,
19 but we recognise that we need to do a full review based
20 on the learning of this hearing and also the learning
21 we've had from case files and from what young people are
22 telling us.

23 Q. Then if we look at FIC-000000515, this was a memo from
24 1999 which was looking at the Children's Safeguards
25 Review and there were certain topics we discussed under

1 this heading.

2 If we look down to 2, there was "SCRO checks", and
3 at that time Fife Council didn't have a policy for
4 updating checks on foster carers other than where
5 a change of remit is identified and it talks about
6 discussions with other agencies and it says:

7 "... the norm appears to be that these are carried
8 out two yearly on all foster carers, prospective
9 adopters and family members aged over 16."

10 You were asked about that and you talked about the
11 PVG scheme, you thought that was superseded by that, and
12 I think you were going to look at whether these checks
13 on foster carers and on family members are updated on
14 a regular basis, and, if so, how frequently.

15 A. Every three years is when the updates happen, but if
16 we've got concerns then we can apply for an updated PVG.

17 We have noted that there is a little bit of
18 a vulnerability in terms of information coming to us if
19 a foster carer is involved in the police and that
20 information then doesn't come forward to us, we can be
21 left with a little bit of a time delay in terms of
22 taking action, so if it's just concerns rather than any
23 convictions being taken forward, so we're working with
24 the police to say how can we tighten that process up.

25 We used to get letters from the police if there were

1 any concerns. That seems to have stopped since Police
2 Scotland have come in to fore and we are working with
3 our police colleagues to say what's the impact of that
4 and what other process do we need to put in place?

5 We've also spoken with PVG service and said whilst
6 it's not recommended that we ask for additional PVGs,
7 because it should be done with consent, there are
8 circumstances where we have a concern and we've gone to
9 them and asked for an update.

10 I think that's an area that we need to work on
11 a little bit more with our colleagues in PVG and the
12 police.

13 Q. Just dealing with these issues then, in terms of the
14 police, you're saying if the police have a concern about
15 a foster carer, then normally -- or in the past they
16 would have told you about it and you feel you're not
17 getting that information?

18 A. (Witness nods)

19 Q. Are you talking about a concern in relation to the
20 behaviour of a foster carer towards a child in
21 placement --

22 A. No.

23 Q. -- or are you talking about, for example, a foster carer
24 being involved in some other form of potentially
25 criminal behaviour?

1 A. Some other form of behaviour. So not related to the
2 child. And not necessarily related to their role as
3 a foster carer. But I think it's important that we are
4 connected to any information around foster carers and
5 adults in children's lives.

6 Q. Okay.

7 Then in terms of the PVG scheme, you mentioned
8 an issue in relation to updating, so you're able to
9 update every three years, and does that apply to foster
10 carers and members of their family who are over 16?

11 A. Yes.

12 Q. But I think were you indicating that if another issue
13 arises and you want to do a new check, you have
14 a problem with repeated checks?

15 A. No, we can do a new check, but typically we would expect
16 PVG to notify us.

17 Q. I see, so it's the other way around?

18 A. Yeah.

19 Q. Are you not getting that information, do you feel?

20 A. It depends on the information. So we're just navigating
21 through that at the moment with the PVG scheme and the
22 police.

23 Q. Okay. Right.

24 A. It seems to be more the information, the gray areas
25 rather than absolutes, but I think that can all be part

1 of our chronology and our working knowledge of foster
2 carers and people in the households.

3 Q. Okay. Then on this page, so page 4 at the top of the
4 page there was reference to not recording absconding
5 from foster care and you were asked some questions about
6 where would that be held, would that be held in some
7 central location, would it be recorded in individual
8 children's files and foster carers' files? Have you
9 been able to look at that?

10 A. Yeah, we've now got a central database that captures --
11 so it will be held in individual carers' files, child's
12 files, but we also have a central database so it allows
13 us to see the kind of wider context in which children
14 are going missing or absconding.

15 Q. If we move on to the evidence that was given in the
16 course of the case study in respect of applicants,
17 I think in your red folder at the second tab there'll be
18 a table or, well, there might be -- if so, go into tab 2
19 of your folder. You'll find a list of the relevant
20 applicants and their pseudonyms.

21 A. Yes.

22 Q. I think you've been able to read the transcripts of
23 these people's evidence?

24 A. That's correct.

25 Q. If I can ask you about first of all about the first

1 person on that list who has the pseudonym 'Anne', who
2 gave evidence on Day 288, 30 May 2022.

3 As I'm sure you'll recall, she spoke about the death
4 of her sister in foster care.

5 A. That's correct.

6 Q. As a result, I think, she thinks of all of the children
7 sharing a bed together.

8 A. (Witness nods)

9 Q. Before I ask you anything more specific about that, do
10 you have any reflections from reading 'Anne's' evidence?

11 A. I think it would -- I think it was harrowing, and
12 I think that the lack of any audit trail about
13 an investigation into her sister's death adds to the ...
14 the gaps in terms of the accounts given and the
15 accountability.

16 I think also I might be right if it was 'Anne' who
17 looked at her file and it was so redacted couldn't make
18 any sense of it and she was in foster care for three
19 weeks, and for that to be the outcome and that to be her
20 experience and to have adults around her who were meant
21 to be caring and looking after and looking into her care
22 arrangements, it's just not good enough.

23 Q. I think she spoke about the fact it was such a short
24 period --

25 A. Yes.

1 Q. -- but it had a devastating impact on her family.

2 A. Absolutely.

3 Q. Because from there, everything went wrong.

4 A. Yes.

5 Q. She did mention an issue about her records and one of
6 the things that she mentioned in her records -- and if
7 we could just have a look at it, please,
8 WIT-3-000001195, page 9. There was a letter from
9 solicitors acting for her father to the Local Authority
10 and this I think is the response to his solicitors and
11 it says that there was an issue raised about the death
12 of 'Anne's' sister, but it then goes on to talk about
13 claims that were made against the father for
14 a contribution towards the maintenance of the children
15 while they were in that care and there seemed to have
16 been some mix-up about it, but I think the invoice was
17 enclosed.

18 If we move on to the second page of this letter, it
19 says in this first paragraph:

20 "The regret of all concerned has already been fully
21 expressed to the parents following the unfortunate death
22 of their child, the assistant children's officer made
23 a number of calls upon them. I also wrote to your
24 clients conveying the condolences of my council to them
25 in their grievous loss. I am sure that both of the

1 parents are very upset by the loss of their child in
2 such unfortunate circumstances but I am satisfied that
3 the cause of death was purely accidental and that there
4 was no negligence either on the part of the foster carer
5 or the Children's Department of my council."

6 Then it goes on from there suggesting that the
7 mother was also of the view that there was no negligence
8 on the part of the foster carer.

9 In the final paragraph it says:

10 "In the circumstances of this case, I must make it
11 quite clear that I am of the opinion that there was no
12 negligence on the part of the County Council or their
13 employees and I must request that the account for
14 maintenance of the three children which is enclosed
15 herewith be paid by your client."

16 In her evidence, 'Anne' spoke about that letter and
17 I think she felt very strongly about the way in which
18 the Local Authority had responded to what her father had
19 raised. Do you have any reflections on that?

20 A. It's certainly how we wouldn't respond today.

21 I think it's -- I think there are glaring gaps in
22 being responsible and taking care and treating people
23 with respect and humanity.

24 I can't answer for it, but I would certainly not
25 accept that as a response from Fife Council today. And

1 "The boys were received into care on [REDACTED] 1962 and
2 were placed with carers."

3 Then it says:

4 "'Gordon' was referred to a doctor in Victoria
5 Hospital and was admitted on [REDACTED] 1965 for
6 investigation for apparent underweight. The diagnosis
7 was minimal undernourishment."

8 Then it refers to the foster care placement
9 continued.

10 Just pausing there, if a child has been investigated
11 for underweight during the course of a foster care
12 placement and the diagnosis is, even if it's minimal,
13 undernourishment, would that raise a concern?

14 A. Absolutely. And there'd need to be some more
15 understanding about what the cause of that
16 undernourishment was, but there would be a team
17 around -- professional team around the child. Including
18 health, school nurses, education and other people who
19 would have visibility of that child and track annual
20 medicals as well, to track weight and height and
21 development and growth.

22 Q. Would you expect a review of the foster care placement
23 to be undertaken?

24 A. Absolutely.

25 LADY SMITH: That would be notwithstanding the foster child

1 having moved on? Whether or not the foster child was
2 still in the foster home?
3 A. Yes, yes.
4 LADY SMITH: Thank you.
5 MS INNES: I want to come to the evidence of an applicant
6 with the pseudonym 'Susan', who gave evidence on
7 Day 317, 18 August 2022. We know that she was in the
8 care of a Peter Forbes --
9 A. Yes.
10 Q. -- who was convicted. He pled guilty in relation to
11 sexual offences against 'Susan'.
12 A. Sorry, can I just stop there? Just to raise an issue
13 around 'Gordon's' circumstance.
14 Q. Yes.
15 A. Was the stealing was related to bad behaviour, him being
16 difficult as opposed to any connection between needing
17 to be fed.
18 LADY SMITH: I see that. It just occurred to me that for
19 something like that, you'd want to find out whether or
20 not, if a child was still there, whether the foster
21 parent understood properly the nutritional needs of
22 children in her care.
23 A. Yeah.
24 LADY SMITH: Thank you.
25 MS INNES: I think in 'Gordon's' evidence he talked about

1 stealing food because of the issues with a lack of food
2 in the home.

3 A. Yes.

4 Q. Okay.

5 So if we go back to the evidence of 'Susan', who as
6 I've said was in the care of a Peter Forbes who was
7 convicted of sexual offences against 'Susan'. I take it
8 again you're aware of the circumstances of this case?

9 A. Yes.

10 Q. Before I go on to look at a couple of the records here,
11 do you have any reflections on 'Susan's' evidence?

12 A. I think it's the same themes that are emerging around
13 listening to children, about recording concerns,
14 accounts, complaints, allegations, and about children
15 and young people being able to have a voice that is
16 heard outside of the care arrangement and outside the
17 adults that are around that care arrangement.

18 I think for us there was a chronology of the foster
19 carer would have been helpful again in this case to be
20 able to understand there was a long history in which he
21 was providing care in different environments and so
22 there was -- when it came to light, there was
23 a recognition that this wasn't only in relation to
24 'Susan', this was behaviours that had potentially
25 developed way before that.

1 Q. Okay.

2 A. So checks and balances. I suppose what I'm trying to
3 say is that children shouldn't be held responsible for
4 their own safe care. That's the adults around them,
5 that's the recruitment, that's the policies, it's the
6 systems in place, it's the reviews, and having the
7 child's voice at the centre of that.

8 Q. Okay. If we can look at some of the material in
9 relation to 'Susan's' placement with Peter Forbes, if we
10 could look, please, at FIC-000000668, and first of all
11 at page 13. We see here that this is a note from
12 December 1994 and the social worker is saying that he
13 attended the panel today for 'Susan':

14 "... and there was some acrimonious discussion
15 between the two children and their respective parents."

16 So another child is mentioned there. It then says:

17 "The outcome of the panel was that a place of safety
18 order was taken."

19 Then he says he took the children back to the office
20 and got somebody else to take them out to lunch. He
21 says:

22 "I made my calls to foster care services team (East)
23 and two carers have been identified."

24 Two separate carers for each of the children
25 mentioned, and this was where 'Susan' was to go to the

1 Forbes.

2 If we go over the page to the top of the next page,
3 it says:

4 "I had a telephone call from Margaret Anderson to
5 say that PF-GKN were short-term carers and really
6 only passed for children aged 0-12, but arrangements
7 would be made to get special permission for them to keep
8 'Susan'."

9 Here there seems to be a place of safety order was
10 taken. The social worker got the news from the
11 fostering team that this placement had been identified
12 and I think 'Susan' was taken to the placement.
13 However, it then seems to have been identified that the
14 placement was in fact outwith their range of
15 registration and it says that there would have to be
16 special permission.

17 Do you have any reflections on that process? Would
18 one have to then -- would there be more formality before
19 a decision was taken to put 'Susan' with those carers?

20 A. I think it depends on the situation. It was obviously
21 an emergency situation, there were no other care -- from
22 reading the records there were no other care options
23 available apart from these two carers.

24 From where we are now, we would always want to put
25 sisters and brothers together if at all possible, but

1 there have been situations where you are left with one
2 potential care arrangement and that that isn't within
3 the age range of the young person you're trying to
4 support and there is opportunity then to look at
5 extending that for a short period of time if the carers
6 are willing to consider an older age child or a child
7 outside of their age bracket, but there would also --
8 I would expect an assessment to follow up as part and
9 parcel of that, so immediately get the child in the
10 placement, cared for, but there would be another
11 assessment that would have to follow that.

12 Usually we'd be looking at very short-term
13 arrangements, 12, 24 hours, 48 hours. But as we know
14 with resources that placements can drift into longer
15 term when that wasn't the intention. So I think there
16 is activity that we've really got to be robust about in
17 terms of additional assessments and additional
18 requirements.

19 There will be a reason that they had that age
20 criteria and it's understanding that and having some
21 scrutiny around what might the increased risks be about
22 putting a child outside of that age criteria in there.

23 Q. We know, if we look at FIC-000000670 that there was --
24 there were presented to the panel -- this is
25 a handwritten note saying I think minutes,

1 12 April 1995, so she'd been placed in [REDACTED] and this
2 seems to be the panel taking place in April.

3 A. April.

4 Q. Do you have any view on that length of time between the
5 placement and the panel taking place?

6 A. I think it's not best practice is all I could say, and
7 I think it's probably busy offices, short resources, and
8 that cases drift or scrutiny of situations drift. And
9 I think that that's the reason that we require some
10 external review of that.

11 We have got to report to the Care Inspectorate now
12 if there's changes and that would be another
13 safeguarding, but we are allowed to use care placements
14 or care arrangements for short periods of time as
15 an emergency. I wouldn't expect it to go on that long
16 before going to panel.

17 Q. Even if it is used in an emergency, within Fife Council
18 does that have to be approved at a senior level?

19 A. Yes.

20 Q. What level does it have to be approved at?

21 A. Head of Service, Chief Social Work Officer.

22 Q. Okay.

23 If we look at this panel, it refers to them being:
24 "... presented to the panel for a consideration of
25 change of remit from temporary carers for one child or

1 a sibling group of two, either sex, in the age range
2 0-12 years to temporary carers for a sibling group of
3 two or two separate placements in the age range 0-14
4 years."

5 Then there's reference to the carers having been
6 approved as temporary carers in September last year, so
7 they were approved in September 1994 and 'Susan' was
8 placed with them in [REDACTED] of that year, and they
9 noted to have a number of placements since then:

10 "Mrs Anderson informed the panel that she felt they
11 had proved to be excellent carers.

12 "There had been doubts about Mr Forbes with regards
13 to his medical history but she has found them to be very
14 flexible and they have coped very well."

15 We'll come back in the context of another document
16 to look at his medical history but it looks like there
17 were some doubts, she says, about that?

18 A. I think it does.

19 Q. "Their first placements had been a sibling group and
20 a baby. GKN [REDACTED] had found the placement of the baby
21 a little difficult ..."

22 Then it's noted:

23 "Mrs Anderson informed the panel that a 13-year-old
24 child placed had blossomed since being placed with them
25 [so that's 'Susan', I think]. When she had arrived she

1 had been underweight but was now thriving."

2 There's reference to the accommodation.

3 "Mrs Craig enquired as to whether the female carer
4 would be giving up her job. She'd already done that
5 since starting fostering and was loving it."

6 Then there's reference to them whether they would
7 ask for help:

8 "The female carer was very keen, was always ready to
9 help. Mrs Anderson feels that they're a smashing
10 couple."

11 I think that was the only part of that record that
12 we have, but our understanding from the material that
13 you provided to us is that they were approved to --
14 their approval was extended --

15 A. Yes.

16 Q. -- to cover 'Susan's' placement.

17 After the issue arose and the abuse was discovered,
18 we've got some material that tells us that an urgent
19 review was carried out. If we can look, please, back at
20 FIC-000000668, and if we look first of all, please, at
21 page 19, this is a memorandum from John Pease, who is
22 the Regional Manager for Children and Families to
23 a Mr Cassidy, who is the senior depute director, dated
24 7 June 1995.

25 He says:

1 "You have asked me to report to you by the end of
2 two working days into the circumstances leading up to
3 an incident of alleged abuse of a child in this
4 department's care ..."

5 Then it talks about the process of them going to
6 panel and being approved, that they attended all
7 preparation groups. They were interviewed individually
8 and together. All checks were carried out. Then it
9 says:

10 "Concern was expressed regarding Mr Forbes's
11 previous health problems. He had suffered from
12 depression ..."

13 I think that there were suicide attempts on four
14 occasions in the past, the most recent of those in 1989:

15 "The depressions were diagnosed as being reactive to
16 various life events, including redundancy, death of
17 a grandchild and deaths of parents. As a result of
18 these concerns a medical adviser was asked to attend the
19 panel in September 1994. The matters were fully
20 discussed, minuted, and on the basis of medical advice
21 there was no reason not to approve the carers."

22 Then he went on to make further observations. So
23 (a), he says:

24 "The only indication on Form F regarding their
25 awareness of sexual abuse, puberty or problems

1 associated with adolescent sexuality is contained within
2 a single paragraph stating 'they feel they could cope
3 with a child who had been sexually abused or made
4 a disclosure and that they could listen without pushing.
5 Again they feel they would need support'. The assessing
6 social worker is on long-term sick leave. I feel it
7 would be appropriate to discuss both with her and the
8 worker that ran the preparation groups any attitudes or
9 comments that with hindsight may have been followed up
10 with the couple."

11 Here an immediate issue that Mr Pease is raising
12 seems to be around the Form F not having enough
13 information about attitudes and awareness of sexual
14 abuse and issues in adolescents. Is that something that
15 you would expect to be more fully explored in a Form F?
16 A. I think so, and probably that would lead to the
17 registration of 12 and under children. So I think that
18 would be an area that would absolutely have to be
19 considered in any re-assessment.

20 I think now we don't look at chronological age as
21 a determinant. We cover the whole exposure to harm and
22 the behaviours and how they can present from children
23 and young people who have been -- who have experienced
24 trauma and loss, so that might manifest in very
25 different ways, so it's much more generic around trauma,

1 loss, abuse, harm, behaviours as opposed to determined
2 by age.

3 Q. Okay. There's obviously the Form F assessment. How
4 would you gauge people's attitudes to sexuality or
5 sexual issues?

6 A. I think the Form F allows you to have -- to enter in
7 quite a lot of detailed dialogue with people about their
8 understanding, their attitudes to life, their attitudes
9 to religion, looking at social issues, looking at how
10 children and young people may be cared for and some of
11 the challenges that they might present. So it's an open
12 conversation.

13 I think you would look at ratifying that by looking
14 at the home situation, looking at relationships within
15 the home, looking at past history, looking at employment
16 references, so it's a full assessment, but you'd be able
17 to move into specific areas, so emotional abuse,
18 physical abuse, sexual harm, and how those may present
19 challenges for foster carers.

20 So there should be some detailed information about
21 attitudes, understanding, willingness to consider
22 particular challenges that a young person may face them
23 and to associated training that may support that.

24 There's also one-to-one sessions that foster carers
25 have with their link workers. So you'd expect any --

1 that commentary from the Form F to be picked up in
2 practice as time goes on or as young people or the
3 carers themselves identify any issues.

4 LADY SMITH: Kathy, you told me that you thought that
5 information about their attitudes and awareness of
6 sexual abuse et cetera would have been and should have
7 been better explored and you went on and said probably
8 that would lead to the registration of 12 and under
9 children.

10 A. (Witness nods)

11 LADY SMITH: I'm not sure I follow that, if you haven't got
12 full exploration of their attitudes to sexual matters,
13 surely it's a problem in relation to all children?

14 A. It is now. I was just reflecting back that this was
15 some time ago, so that might not have been as pronounced
16 as it needed to be.

17 LADY SMITH: And this was early 1990s?

18 A. Yeah.

19 LADY SMITH: First half of the 1990s.

20 A. Yeah. I'm just thinking Dartington, messages from
21 research came in. After that, that was a big guidance
22 material about what's normal in households, how to have
23 conversations about sexual harm, sexual abuse. So pre
24 that, it might not have been as pronounced as it is
25 today in terms of for all age groups.

1 LADY SMITH: If you think of it in terms of risk --
2 A. Yeah.
3 LADY SMITH: -- surely they shouldn't only have been
4 thinking of the risk of an over 12-year-old being
5 subjected to sexual abuse.
6 A. I agree.
7 LADY SMITH: Thank you.
8 A. And I think there's some information from the foster
9 carers which reaffirms that view that it was because it
10 was -- there was a younger child -- I might be getting
11 mixed up -- so that it wasn't an issue around sexual
12 abuse and I think we've absolutely covered that now.
13 LADY SMITH: Thank you.
14 MS INNES: Then the next point is that the Form F wasn't
15 signed by the team manager or the agency decision maker
16 in terms of the Form F in the file. So I think the
17 writer is making the point that he doesn't know,
18 I guess, if it's been signed off at a senior level,
19 which it ought to have been.
20 A. Yes.
21 Q. One would assume that it had been, but he doesn't have
22 the evidence to demonstrate that?
23 A. Yes.
24 Q. These would be further levels of scrutiny?
25 A. (Witness nods)

1 Q. If we go on to (c) over the page it says:
2 "The Form F states only that police and social work
3 checks have been done with no trace found. It should be
4 appropriate to include the dates on which these checks
5 were carried out or the dates on which replies from SCRO
6 were received."
7 Again just about clarity --
8 A. Absolutely.
9 Q. -- of information.
10 A. Yeah, essential.
11 Q. Then at (d) he says:
12 "At the review carried out on 24 February 1995
13 Mr Forbes wasn't present. It is assumed that he was at
14 work at the time of the review but no reason for his
15 non-attendance is given on the file. Both carers should
16 be present for foster care reviews whenever possible."
17 Is that something that you would expect now?
18 A. Absolutely.
19 Q. If one of the carers can't be at the review, does the
20 review go ahead or how is that dealt with?
21 A. It depends on the circumstances, but there would
22 absolutely be an expectation that the review questions
23 or the concerns or anything raised in the review would
24 include both carers if they were both foster carers.
25 Q. Then at (e) it says:

1 "From the meeting of the fostering and adoption
2 panel on 21 September 1994 [that's the date at which
3 they were approved], it would appear that PF - GKN
4 remained in the meeting while the decision was being
5 made to approve them. Their attendance at this part of
6 the process may have inhibited members of the panel from
7 expressing any reservations regarding their approval."
8 A. That doesn't happen now. So foster carers are asked to
9 wait outside until a decision is made and then invited
10 back in, and if it's to not approve, they'll be given
11 written notice and opportunity to appeal.
12 Q. Then at (f) he notes the approval criteria, registration
13 criteria.
14 A. (Witness nods)
15 Q. Then he talks about the process that she was matched
16 with and placed with them. He says that he wasn't able
17 to find case notes in relation to the admission and
18 placing with them. He says:
19 "The foster carers' file does contain some relevant
20 information and is appropriately noted and recorded.
21 From this it would appear that appropriate consideration
22 was given to finding a placement for 'Susan'. Approval
23 for them to take a child outwith their age range was
24 given by the Assistant Regional Manager, Ian Tate."
25 So it appears to have been approved at a senior

1 level?

2 A. Yes.

3 Q. "The subsequent report and recommendation on
4 12 April 1995 has been completed."

5 He then talks about some positives in relation to
6 her progress and then he says:

7 "As far as can be ascertained given lack of case
8 notes, basic procedures regarding matching and placement
9 may have been carried out. There remain a number of
10 serious gaps which require further investigation, some
11 of these relate to social work practice, case recording
12 and other related matters that you've also asked me to
13 investigate. For the sake of convenience and clarity
14 I list these below."

15 So (a), no case notes from 24 October 1994 to
16 23 December on 'Susan's' file.

17 Secondly, 'Susan's' file containing a number of case
18 notes and correspondence in relation to her brother, and
19 he says that obviously all the relevant material should
20 be on the correct file.

21 A. (Witness nods)

22 Q. "There are some case notes that don't appear to have
23 been typed up and contained on the file from March 1995.
24 Case notes aren't kept in strict chronological order,
25 thereby making the reading of them difficult."

1 Again, if you need to access relevant information,
2 he's probably making the point that it needs to be
3 accessible, easy to find?

4 A. Yes, absolutely. I think we'd all accept that. And
5 I think that business support and business resource,
6 administrative support for the social work role has
7 depleted over the years as we've moved to electronic
8 systems, so hopefully as we -- we should be able to
9 offer much greater clarity and robustness in terms of
10 individual children's case records, but whilst there's
11 still a migration, we've done most of it from paper
12 files to electronic systems, I think we recognise there
13 was a vulnerability there in terms of transfer of
14 information and I think the new setting the bar report
15 that's come out through Social Work Scotland has
16 recognised that actually those business processes are
17 critical, because it's how we capture children's
18 accounts and their lives and that part of social work is
19 something that's been depleted, so that support to
20 social work as a profession has been depleted.

21 That's not an excuse. I think it's absolutely
22 imperative that children have access to what's written
23 about them and also it properly reflects their
24 experience.

25 Q. At the top of the next page at (c) he says:

1 "It is not clear from the file what contact the
2 social worker has had with 'Susan' on her own. The
3 social worker has been involved in ensuring arrangements
4 for education, there's a sparse written care plan. The
5 parents had been appropriately contacted."

6 He then says:

7 "It nonetheless remains unclear as to what measures
8 the social worker took to ensure 'Susan's' safety,
9 happiness and security within this placement. It is
10 recognised that 'Susan' was not giving any outward signs
11 of distress, unhappiness or insecurity within the
12 placement."

13 Do you have any observations arising from that in
14 respect of the social worker's contact with 'Susan'?

15 A. I think he just presents a really difficult, complicated
16 picture. So some of the indicators that we would look
17 to to give assurances that a child was flourishing or
18 being nurtured in a placement would be growth,
19 development, weight gain.

20 I think what we have here is we have some of those
21 which is probably more indicator of what wasn't
22 happening in her life before she came into care, so
23 there's no analysis there.

24 I think the social worker not seeing her on her own
25 is another significant gap and we've learnt that lesson

1 long and hard that it's absolutely imperative social
2 workers have time with children outside of the home or
3 the adults who are caring for them and it could be other
4 professionals as well, but time on your own with a child
5 is crucial to understanding and getting to know their
6 experience.

7 Q. Then in the next couple of points he mentions things
8 that 'Susan' could have been told about and there was no
9 indication that she had been, so advice about the
10 children's rights officer?

11 A. Yes.

12 Q. To make sure that children know about access to that.
13 Nowadays, would you make sure that they know what routes
14 they have to contact an independent advocate?

15 A. Yes. Yes, there is Who Cares?, Barnardo's rights
16 officers and independent workers they can contact.

17 Q. Then he talks about a booklet that all children should
18 be given.

19 Then he refers to her into-care medical report
20 suggests that she may need intermittent treatment for
21 urinary infections and there was no discussion of this
22 at the into-care medical. So again a lack that he's
23 picked up there?

24 A. Yes.

25 Q. At (g) he says that she's not attended her Child-in-care

1 Review on 1 February 1995 without any reason being
2 given, and again would it be expected that a child of
3 her age would attend a review?

4 A. Absolutely, and give views if not and be given choices
5 about how to represent or present their views.

6 Q. Then he says:

7 "The system for reviewing children in short-term
8 care and ensuring satisfactory plans appears inadequate
9 in this case."

10 A. (Witness nods)

11 Q. Then he talks about there is no indication of the file
12 having been discussed with the team manager in
13 supervision, nor initials indicating that the file has
14 been examined by the team manager.

15 Would you expect a team manager or supervising --
16 maybe a senior social worker to supervise a social
17 worker?

18 A. Yes, and files should have signatory audits that it's
19 been reviewed by a senior manager, so we'll certainly --
20 at my level I dip sample and the senior manager that
21 I supervise, she would also dip sample cases. So there
22 are standards that would have to be achieved in terms of
23 team managers signing off reports on papers, looking at
24 cases in terms of supervision and so having an audible
25 footprints over records, but also that dip sampling

1 which supports that.

2 Q. Then at (j) there's reference to an allegation but it's
3 relating to her care with her father.

4 'Susan' did give evidence about her experience of
5 the dynamic between the social worker and her respective
6 parents.

7 A. Yes.

8 Q. I think that dynamic and relationship made it difficult
9 for her to express her views, I think.

10 A. Yes.

11 Q. That would be something to be borne in mind,
12 particularly at reviews or children's hearings?

13 A. I think we're very alert to that and look at
14 opportunities to better understand it and make changes
15 as need be.

16 Q. He says:

17 "This is an interim report. Further enquiry and
18 interviews might cast further light on the issues
19 raised. There is no way of knowing whether or not
20 action could have been taken earlier that may have
21 prevented the alleged abuse or unfortunate development
22 between 'Susan' and her foster carer. Nonetheless there
23 are serious gaps in the standard of support and
24 recording that appears to have been offered to this
25 child."

1 So that's the outcome of his report, having dealt
2 with it within a short time frame.

3 If we look back to page 17, we see there on the same
4 day that Mr Cassidy, the senior depute director sends
5 this on to a Mr Tempest, who's the depute director, with
6 the -- I think a copy of a memo which we'll come to in
7 a moment, but they'd clearly met with John Pease to
8 discuss the case and it's noted:

9 "... you and he should now arrange appropriate
10 management of follow-up action in the areas identified.

11 >Your own suggestion of a report to the
12 fostering/adoption panel would seem helpful and this
13 should be undertaken on a separate basis from the review
14 of the foster carers.

15 As agreed, the management tasks arising from this
16 case will be of value in relation to wider practice and
17 you will advise Mr Pease on the timing and nature of the
18 steps to be taken and their implications."

19 It appears that there was a discussion that there
20 might be wider lessons to be learned from this.

21 A. (Witness nods)

22 Q. If we look at page 18 we see the memo referred to, which
23 is from Mr Cassidy to Mr Pease, and he notes that
24 content of the report and he says that as agreed in the
25 meeting the interview of the assessing social worker

1 should be reviewed and she's on long-term sick leave but
2 sensitivity was to be shown:

3 "With regard to your observations for further
4 consideration and the areas requiring further
5 investigation and action, we have agreed with Mr Tempest
6 that you and he will ensure appropriate follow up."

7 Then it says:

8 "Whilst you have been particularly suited to the
9 investigative task in view of your relatively recent
10 appointment in the department and your experience in
11 dealing with such matters, there is value to you as
12 Regional Manager (Children and Families) in highlighting
13 areas for further attention."

14 Again, it appears that this is going to be
15 an ongoing process.

16 I think that's all that we were able to find in the
17 documents that you gave us in terms of any review
18 following the conviction of Mr Forbes, or in the
19 circumstances that gave rise to the proceedings, because
20 that's before he was actually convicted.

21 Are you aware if there were any other follow-ups?

22 A. I'm not. I think we've looked at trying to
23 cross-reference this with some other activities, but
24 I can't give any kind of guaranteed position. There's
25 nothing tangible that I can go to that says, "Yes, I can

1 see that this is the action plan that relates to this".

2 What I would say is interestingly, and it would have
3 been available to them in 1990, I think we missed the
4 Child Protection Committee undertaking reviews, and so
5 when we've got allegations against children in foster
6 care, there is a leaning towards that being dealt with
7 internally within social work.

8 I know in Fife we've said we want to bring these
9 cases to the Child Protection Committee which gives it
10 a much wider lens and a much more formal review process
11 or mechanism for review and the learning then cascades
12 across the partnership so it's much more visible.

13 This kind of comes to an end point and I don't see
14 any connectors.

15 Q. Okay.

16 In terms of other convictions, we talked on the last
17 occasion about the conviction of Rachel Lessels, which
18 is a much more recent conviction, and I asked at that
19 stage whether there was a report from the review that
20 had been undertaken at the time or any action plan that
21 you were adopting and I think you were going to have
22 a look at that for us?

23 A. Yes, there was an action plan, and apologies, I should
24 have submitted that, but also that is a case that we'll
25 be looking at taking to the Child Protection Committee

1 for a more formal learning review, for consideration of
2 a learning review, recognising that the action plan has
3 been looked at internally from a social work lens.

4 Q. Okay.

5 Just finally then, Kathy, we may have picked up on
6 various issues as you've given your evidence, but I just
7 wanted to make sure that in case there was anything else
8 that you wanted to identify as failings that you'd seen
9 during your review of the evidence in this case study
10 and any possible remedies or lessons to be learned.

11 A. I think what's been disappointing is reading back
12 through previous reports and previous reviews, there's
13 the same messaging, so there's something really
14 significant that's got to shift.

15 I think it's greater than having -- I'm less
16 inclined to take a kind of over prescriptive managerial
17 process, I think we have got to follow the process and
18 systems and there's got to be clarity, accountability
19 and audit of assessments and records, particularly
20 chronologies around foster carers, but there is
21 something culturally that we've got to shift and it's
22 how we do that looking at the requirements of the
23 Promise, looking at whether the National Care Service
24 will come in.

25 From Fife, building up an independent quality

1 assurance team will offer us an additional lens, but we
2 can't be complacent. There's still so much more to do
3 and I think we'll only learn that through listening to
4 people who have been in care and people who are
5 currently in care.

6 Foster carers will have something to say to us as
7 well, and I think it's important. It's really difficult
8 in some situations, I think 'Susan's' situation was
9 a classic, where you're getting some positive
10 identifiers and indicators, and that there's something
11 really not right going on behind that, so we've got to
12 get that narrative out there that we will listen, we
13 will believe, we will validate people's accounts. We
14 give opportunity for children to say but they are not
15 responsible for keeping themselves safe, that's our
16 responsibility as professionals.

17 MS INNES: Okay, Kathy, I don't have any more questions for
18 you.

19 There are no applications, my Lady.

20 LADY SMITH: Are there any outstanding applications for
21 questions of Kathy?

22 Kathy, that does complete everything we have to ask
23 you this afternoon. Thank you so much for coming along
24 again --

25 A. Thank you.

1 LADY SMITH: -- and going back to areas we'd asked you about
2 before and being so patient with us wanting to explore
3 them again and get things up to date. And thank you for
4 your frank recognition that there is still work in
5 progress.

6 A. (Witness nods)

7 LADY SMITH: We all want that because we all want the very
8 best we can do for the protection of children in care.

9 A. Yes.

10 LADY SMITH: I fully appreciate you understand that. I wish
11 you well --

12 A. Thank you.

13 LADY SMITH: -- in your continuing endeavours. Thank you
14 for being here and I'm glad to be able to let you go and
15 get home. I'm sorry it's going to be in the dark, but
16 hopefully not too dark.

17 A. Thank you.

18 LADY SMITH: Thank you.

19 (The witness withdrew)

20 LADY SMITH: I think that completes the evidence for today;
21 is that right?

22 MS INNES: It does, my Lady.

23 Tomorrow we have evidence from Dundee -- from
24 Glyn Lloyd, who also gave evidence earlier in the
25 Inquiry -- and from Dumfries and Galloway, who we've not

1 heard from before.

2 LADY SMITH: Thank you very much. I'll rise now until

3 10 o'clock tomorrow morning.

4 (3.51 pm)

5 (The Inquiry adjourned until 10.00 am on

6 Thursday, 10 November 2022)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Graeme Simpson (sworn)	1
Questions from Ms Innes	2
Kathy Henwood (sworn)	111
Questions from Ms Innes	112

