

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

Thursday, 21 September 2023

(10.00 am)

LADY SMITH: Good morning.

We turn now to the next of this week's witnesses,  
and that's again somebody who we have heard from before  
I think, Mr Sheldon.

MR SHELDON: Yes. Ms Allison.

LADY SMITH: Maree Allison, is it?

MR SHELDON: That's right.

LADY SMITH: Is she ready to give evidence?

MR SHELDON: She is ready.

LADY SMITH: Thank you.

Maree Allison (sworn)

LADY SMITH: Good morning.

Could I ask you to raise your right hand and repeat  
after me.

(The witness was sworn)

LADY SMITH: Do sit down and make yourself comfortable.

First of all, welcome back, and thank you for being  
prepared to come back. It is really helpful to have you  
here for Phase 8, in addition to the evidence you have  
already been so good as to let me have.

You know how we run the evidence. You know that we  
will take evidence from you at the moment for about  
an hour and a half, have a break for 15 minutes or so

1           and then carry on. And you must speak up, if you have  
2           any questions yourself, or if you need a break at any  
3           other time, just let me know.

4           I think I am right in saying when you were here the  
5           last time you invited me to call you by your first name,  
6           do I have that right?

7   A. Yes, that's right, thank you.

8   LADY SMITH: Maree, if you are ready I will hand over to  
9           Mr Sheldon and he will take it from there, is that all  
10          right?

11   A. Yes.

12   LADY SMITH: Thank you.

13           Mr Sheldon.

14   MR SHELDON: Thank you, my Lady.

15                           Questions from Mr Sheldon

16   MR SHELDON: Are you, comfortable, Maree, with me calling  
17          you Maree?

18   A. Yes, of course.

19   Q. Thank you.

20          Maree, I think you have given evidence to the  
21          Inquiry twice already, that was in the boarding schools  
22          and foster care case studies?

23   A. Yes, that's right.

24   MR SHELDON: For the record, my Lady, those were Days 212  
25          and 280.

1 LADY SMITH: Thank you.

2 MR SHELDON: Maree, although you are an old hand at this,  
3 this is my first time in this forum, so if there is  
4 anything that I am asking you or saying to you that is  
5 not clear, please do just say and I will try to rephrase  
6 or go back.

7 Maree, in this case study we are looking at a range  
8 of residential care settings, broadly accommodation  
9 provided or used by the State for children who have  
10 committed offences, or have been found in need of care  
11 and protection. The shorthand for this study within the  
12 Inquiry has become "the secure care study", but of  
13 course historically there were many more types of  
14 establishments than that.

15 But at this time would I be right in thinking that  
16 perhaps secure care, special residential schools and  
17 children's homes are the main categories of residential  
18 child care that you would be interested in as  
19 regulators?

20 A. Yes, that's right.

21 Q. I think you have previously provided a CV and  
22 biographical details, and that was in the foster care  
23 setting. Briefly, I think you work as Director of  
24 Regulation with the SSSC, is that right?

25 A. I am currently the Acting Chief Executive, but my

1 substantive role is Director of Regulation.

2 Q. All right, thank you. The Director of Regulation post  
3 covers issues of registration, fitness to practise, and  
4 hearings, that's to say fitness to practise hearings, is  
5 that right?

6 A. Yes, that's right.

7 Q. The SSSC also has a role in setting core standards and  
8 skill sets for workers, but I will have a few questions  
9 about qualifications and standards later. Are you happy  
10 to speak about those issues --

11 A. (Nods)

12 Q. -- today?

13 A. I will do my best.

14 Q. All right, thank you. Just to reiterate what I think  
15 you have already told us, the SSSC has no monitoring or  
16 inspection role. I think it is the case that you rely  
17 on referrals to take disciplinary action?

18 A. Yes, that's right.

19 Q. All right. And it is the Care Inspectorate who deals  
20 with monitoring of staff and recruitment practices, and  
21 so on?

22 A. Yes, the Care Inspectorate monitors the care services  
23 and we respond to referrals about the registered  
24 workforce.

25 Q. All right, thank you.



1           Maree, you have very helpfully provided a further  
2           submission for this, tailored to our particular case  
3           study here. The Nuix number is SSC-000000046. Do you  
4           have a copy of that in front of you?

5   A. Yes, I do.

6   Q. All right, thank you.

7           We see that there is an introduction. You tell us  
8           a little bit about the SSSC and you then go on to  
9           part B, the legislation and registration framework.  
10          Maree, I am not going to spend very much time on this.  
11          I think you have already been through much of the  
12          legislative and regulatory background. But could  
13          I summarise the three main threads of the SSSC functions  
14          as being registration, education and training and  
15          regulation and fitness to practise?

16   A. Yes.

17   Q. You go on to look at the legislative background. You  
18          mention the 2001 Act, and pick out in particular two  
19          sections of that, section 44 and section 77, about  
20          social service workers and the definition of a social  
21          service worker.

22          Just one matter I would like to pick out there in  
23          relation to section 77. It perhaps bears emphasising  
24          that inspectors are persons regulated by the SSSC; is  
25          that right?

1 LADY SMITH: Can we go down a little bit on the screen,  
2 because --

3 MR SHELDON: I am sorry, my Lady.

4 LADY SMITH: -- we will get to section 77 if we do. It is  
5 under the Regulation of Care (Scotland) Act 2001. Thank  
6 you.

7 A. Yes, that's correct. Authorised officers, authorised  
8 persons under the Care Inspectorate legislation are  
9 required to be registered with the SSSC and to obtain  
10 the appropriate qualification.

11 MR SHELDON: Does that mean that in theory, at least,  
12 inspectors could be subject to SSSC disciplinary action?

13 A. Yes, that's correct.

14 Q. For example, if they had appeared to miss something  
15 obvious that was wrong in a care service?

16 A. Yes, the Care Inspectorate I think, or somebody else,  
17 could make a referral to us saying that as part of their  
18 role an inspector had not worked to the appropriate  
19 standard.

20 Q. All right. So that would be more, really, a matter of  
21 deficient professional practice, rather than misconduct,  
22 per se?

23 A. Yes, that's right.

24 Q. All right.

25 At paragraph 7, page 4, you go on to mention that

1 the 2005 order, The Regulation of Care (Social Service  
2 Workers) Order 2005, prescribes the descriptions of  
3 other social service workers who are eligible to  
4 register with the SSSC, but just for clarity, for  
5 workers in the social care sector, certainly those  
6 working with children, am I right in thinking that  
7 registration would be mandatory?

8 A. Yes, registration is mandatory through a responsibility  
9 on the employer to only employ people who are  
10 registered, if they are fulfilling the function.  
11 Employers do have a six-month grace period after  
12 an individual starts employment in order for that  
13 individual to obtain registration, but after that if  
14 they are employing somebody who is not registered, and  
15 there isn't a reasonable excuse, then it is potentially  
16 a criminal offence.

17 Q. All right, thank you. I was going to ask you about the  
18 grace period. I think in the boarding schools study you  
19 mentioned to my colleague, Mr Brown, that there had been  
20 some consideration of reducing that period?

21 A. (Nods)

22 Q. Is that something that has been taken forward, or is it  
23 something that is still under consideration?

24 A. Yes, it is something that we have requested be taken  
25 forward, and the Scottish Government are considering

1 making changes to the statutory instrument. The  
2 approach that we are hoping will come into force next  
3 year would put a requirement on the individual worker to  
4 apply for registration within three months of starting  
5 employment, and then the six-month grace period for  
6 an employer would still remain.

7 Q. All right, thank you.

8 You then go on, towards the bottom of page 4 of your  
9 submission, to deal with the various categories of  
10 residential care workers, both managers, supervisors and  
11 also workers. There is a distinction, of course,  
12 between social workers, residential care workers and  
13 residential school care workers.

14 I don't want to take you to that in detail, but do  
15 I understand correctly that the difference between  
16 residential child care services and residential school  
17 care accommodation services depends essentially on  
18 whether the service provides an element of personal care  
19 or support?

20 A. Yes, yes, I think that would be a fair summary of that  
21 complicated legislative framework.

22 Q. All right. Setting aside social workers for the moment.

23 A. Yes.

24 Q. What do we mean by "personal care or support" in this  
25 context? I think there may be legislative provision for

1           that, but perhaps you can outline what's meant by that?

2   A. Yes, I think that means where an individual has  
3       particular needs that require additional support, so  
4       they may have experienced trauma, they may have  
5       a disability. So something that requires something  
6       additional to, I suppose, the general population of  
7       children.

8   Q. All right. Because I was going to say that in  
9       residential schools it would be quite hard to see why  
10      the support given to pupils as an everyday matter might  
11      not qualify as personal care or support. So, as far as  
12      you are concerned, this is something over and above  
13      ordinary support that a parent might give to a child?

14  A. Yes, that's right.

15  Q. All right.

16           Again, for reference, my Lady, the particular  
17      definition of "personal care" is in schedule 12 of the  
18      2010 Act.

19  LADY SMITH: Thank you very much.

20  MR SHELDON: That's paragraph 20.

21           I suppose the follow-up question to that one is just  
22      looking at these different categories of worker, for  
23      your purposes -- and I suppose our purposes today --  
24      does it particularly matter for regulatory matters which  
25      category a worker falls into?

1 A. It only matters insofar as if there is a difference in  
2 the qualification requirement.

3 Q. Right. So their particular role and status determines  
4 the qualification that they require in order to maintain  
5 registration; is that right?

6 A. Yes, that's right.

7 Q. All right, thank you.

8 Moving on, then, to page 6 of your report. You are  
9 dealing with the size of the register. This is now  
10 paragraph C, so it is towards the foot of page 6. You  
11 deal there with both the numbers on the register and  
12 also the percentage of the particular workers who are  
13 now qualified. I think you have told us on previous  
14 occasions that --

15 LADY SMITH: Is this actually showing up on page 5? I think  
16 it might be 5.

17 MR SHELDON: It is page number, certainly on my copy, my  
18 Lady, it is --

19 LADY SMITH: The bottom. In the middle at the bottom.

20 MR SHELDON: Certainly it is section C --

21 LADY SMITH: That's it.

22 MR SHELDON: -- starting with the number 9.

23 LADY SMITH: Yes, that's showing up as page 5.

24 MR SHELDON: All right, I'm sorry, my Lady, it is a problem  
25 with my copy of this then. So apologies for that.

1 LADY SMITH: I think the copy you have is a page ahead per  
2 number, so if you allow for the possibility that --  
3 MR SHELDON: It seems so, my Lady.  
4 LADY SMITH: -- in the system we have loaded up at the  
5 moment it is a page behind. That's fine.  
6 MR SHELDON: All right, thank you, I will try and factor  
7 that in.  
8 LADY SMITH: Yes.  
9 MR SHELDON: At paragraph 9 at all events you are talking  
10 about numbers on the register and the percentage who are  
11 qualified. I think we see that the bulk of workers,  
12 really, from these numbers are social workers and that,  
13 of course, as I think you have told us previously, this  
14 is a qualifications-based register,  
15 a qualifications-based system. We see that of managers  
16 of residential child care services, 60 per cent are now  
17 qualified, 59 per cent for supervisory workers in  
18 residential child care and 49 per cent for residential  
19 child care workers.  
20 I think on previous occasions you have told us about  
21 the issues with getting people qualified, that when they  
22 get employment there is an inevitable time lag before  
23 they obtain a qualification. Have I understood that  
24 correctly?  
25 A. Yes, that's right. It is normally five years after

1 registration that they have to obtain the qualification.

2 Q. All right. But I think you also told the Inquiry during

3 the boarding schools hearings --

4 LADY SMITH: Just to track this through, we talked earlier

5 about allowing a time lag of months, six, you hope it

6 will go down to three, for getting registered. And then

7 you accept that the person getting registered may not

8 yet have their qualification?

9 A. That's right.

10 LADY SMITH: And they are allowed five years for getting

11 a qualification?

12 A. Yes, currently five years, my Lady.

13 LADY SMITH: Right, thank you.

14 MR SHELDON: Thank you, my Lady.

15 LADY SMITH: Thank you Mr Sheldon.

16 MR SHELDON: That's where I was going with that, actually.

17 LADY SMITH: Sorry.

18 MR SHELDON: It is another question about the time period.

19 There is the five-year grace period, and I think

20 again you had mentioned that there was some

21 consideration to be given to reducing that grace period.

22 Again, is that something that's being looked at and

23 taken forward?

24 A. Yes, we are considering that at the moment and looking

25 to make final decisions around it over the course of



1           probably by the end of the year.

2   Q.   Sorry, the end of this year?

3   A.   The end of this year, yes.

4   Q.   All right, thank you.

5   A.   The policy intention I think was that as we were  
6       bringing different groups on to the register who were  
7       already in the existing workforce, there had to be  
8       an appropriate period of time to allow them to obtain  
9       what was a new qualification for that workforce, and  
10      also sufficient time for there to be providers of the  
11      qualification. Now that everyone who it is intended to  
12      be registered is now registered, we are at that point of  
13      looking at whether five years is too long and now it  
14      should be reduced down. One of the things that is  
15      relevant to it is that this is a practice-based  
16      qualification that we ask people to do, so people are  
17      expected to be in practice and be able to demonstrate  
18      their learning and understanding and competency through  
19      their practice. So people have to work whilst also  
20      studying and then demonstrating what they have learned  
21      through their practice. So there is a period of time  
22      that is required to happen in order for them to be able  
23      to demonstrate that.

24   LADY SMITH: Have you also had to liaise with employers to  
25      get them on board?

1 A. Yes, yes, we are speaking to employers about, for them,  
2 that impact on service delivery. If you are allowing  
3 individuals in the workforce to be released to go and  
4 carry out studying, and also concerns about things like  
5 access to funding for qualifications. So it is  
6 a complex picture to set that time period appropriately.

7 LADY SMITH: Are any of the employers actually qualified to  
8 deliver any of the necessary training for getting the  
9 qualification?

10 A. Yes. Some services become SVQ assessor centres  
11 themselves, so they do then train their own staff.  
12 I think that tends to be larger services who would  
13 develop that approach.

14 LADY SMITH: Yes, thank you.

15 MR SHELDON: Just following up on that, if I may, my Lady.

16 LADY SMITH: Please do.

17 MR SHELDON: Does that imply, then, that employers are doing  
18 the continuous assessment, if I have understood  
19 correctly what actually happens, that they are the ones  
20 who would be monitoring the employee on the job to make  
21 sure that their practice is consistent with their  
22 training?

23 A. Yes, I think if you are an SVQ assessor centre -- I say  
24 this because the SSSC is an SVQ assessor centre for our  
25 own staff carrying out some SVQs -- then the SQA, the

1 Scottish Qualifications Authority, do have a role in  
2 ensuring that you are carrying out that assessment  
3 appropriately and fairly and ensuring that the staff  
4 members that are going through it are achieving the  
5 right standard.

6 Q. Thank you, that was my next question. So the SVQ  
7 provides the independent monitoring of that process?

8 A. The SQA.

9 Q. The SQA, I beg your pardon.

10 A. Yes, yes.

11 Q. Thank you.

12 At all events, just looking at the raw numbers of  
13 those who qualified, I think you told us previously that  
14 at the establishment of the SSSC only about 20 per cent  
15 of the workforce had relevant qualifications?

16 A. Yes, I think that's right, yes.

17 Q. Compared to that, can we say that there has been fairly  
18 significant progress in getting the workforce qualified?

19 A. Yes, yes, there definitely has.

20 Q. All right. I suppose that might accelerate further if  
21 the five-year grace period is reduced?

22 A. Yes.

23 Q. Is that right?

24 A. We would expect it would, subject to turnover levels  
25 within different sectors, which is quite an important

1 factor.

2 Q. Can you give us any comment about turnover levels? We  
3 have some evidence in your submission later about  
4 statistics in the workforce. Can we take anything from  
5 that about turnover levels?

6 A. I haven't looked specifically at turnover levels for  
7 this part of the register. I do know adult social care  
8 has the highest level of turnover --

9 Q. All right.

10 A. -- but I can provide information to the Inquiry, if  
11 that's helpful.

12 Q. That would be helpful, thank you.

13 Just turning to that, if we may. You are dealing  
14 with this at paragraph 11. You published a data report,  
15 "The residential child care report: the workforce,  
16 services, providers and looked after children". The  
17 reference to that is SSC-000000075.

18 Thanks very much.

19 If we could go to, first of all, to page 4 of that,  
20 please. At paragraph 1.1, I think you say there:

21 "The overarching aim of this report is to provide  
22 greater insight into the residential child care sector  
23 in Scotland. It does that by bringing together  
24 information on the workforce, numbers ... and  
25 providers."

1           You note:

2           "This is the first time we have produced a report  
3 like this on any part of the social service sector."

4           Could I just ask you what the driving force behind  
5 that was, what the thinking behind producing this report  
6 was?

7 A. Yes, I am so sorry, I am not sure of the background as  
8 to why it was that specific sector that was chosen for  
9 this report. I would be speculating to say it was  
10 related to The Promise, so I can come back and confirm  
11 that.

12 Q. All right, well, we are going to look at The Promise and  
13 some of the documents surrounding that a little later  
14 on, so we can perhaps come back to that.

15           In the meantime, could we turn, please, to page 6,  
16 which should, I think, be the key findings. Yes. Do we  
17 see there that, first bullet point:

18           "The overall residential child care workforce has  
19 increased by [my eyesight is not what it once was]  
20 16 per cent since 2010."

21 A. Yes.

22 Q. Is that right?

23 A. Yes, 16 per cent.

24 Q. It has increased across a range of different types of  
25 employer, but the number of children and young people in

1 residential care has decreased, and although residential  
2 child care services have increased quite significantly  
3 since 2010, the number of residential special schools  
4 and secure accommodation services fell by 5 and  
5 29 per cent respectively. Does it seem that that  
6 particular category, residential special schools and  
7 secure, are, as it were, bucking the general trend?

8 A. Yes, and I'm sure the Care Inspectorate will give much  
9 more detailed evidence around this, but reflecting the  
10 move to children who do need to come into staying in  
11 a residential child care service, that being done in  
12 a way as a much more homely setting. So we see the  
13 increase of those types of smaller settings and  
14 a decrease in the ones that are larger or secure-type  
15 settings.

16 Q. Yes. If we could just scroll down to the foot of that  
17 page, please. Over the page, please, to page 7.

18 There is the overview, and if we scroll down we see  
19 those trends reflected, I think, in tabular form. We  
20 can see the reduction in the number of young people and  
21 if we could scroll down again, please, that's where you  
22 give the sources of the data that you are providing.

23 If we could go now to page 13.

24 LADY SMITH: Just as that page is coming up, this is  
25 interesting that you have a data sharing agreement with

1 CI, so that they can let you have the data that comes in  
2 on the annual returns that have to go to them.

3 A. Yes, that's right.

4 LADY SMITH: And you don't have to do your own exercise  
5 then?

6 A. Yes, that's right. We are a national statistics  
7 provider, so ensuring we have those data sharing  
8 agreements and getting that regular and consistent type  
9 of data to enable us to monitor changes over time is  
10 an important part of our role.

11 LADY SMITH: Of course, yes. Thank you.

12 MR SHELDON: Thank you, my Lady.

13 This is just, really, a summary of the findings, and  
14 again we have a table which I think is helpful in this  
15 context. So that we see that children in young people's  
16 homes, the number of staff has increased significantly  
17 in the time period. But, again, the number of staff in  
18 residential special schools and secure accommodation has  
19 reduced significantly.

20 Can I just ask you about that, and if you can help  
21 us at all on this it would be very interesting to know,  
22 do we know where workers no longer employed in secure  
23 care have gone? In short, are they lost to the  
24 workforce, in effect?

25 A. I couldn't say for sure. I would have thought they

1 would probably be working in other types of residential  
2 child care services, but I couldn't say for sure.

3 Q. It is just that secure care in particular is really  
4 quite a specialised function, and those with experience  
5 in that, I dare say will have a particular skill set.  
6 We know that it is the Government's ambition to move all  
7 people from young offender institutions into secure  
8 care. Does this imply that there might be a problem  
9 with staff in that event?

10 A. In terms of there being insufficient staff in that  
11 event?

12 Q. Yes.

13 A. I would hope that would be part of planning by the  
14 Scottish Government to ensure that there were sufficient  
15 skilled staff to provide the numbers required --

16 Q. All right.

17 A. -- if that policy was implemented.

18 Q. I suppose if it was possible to re-recruit those with  
19 experience, then that is a relatively quick fix, but if  
20 they have to be retrained then that is a longer-term  
21 project, is that right?

22 A. I would assume so, yes.

23 Q. All right.

24 I think it is perhaps just to note at that point  
25 that along with the reduction in the amount of secure



1 care accommodation, I think we have heard recently that  
2 another secure care facility has closed, that is the  
3 Edinburgh Secure Services, are you aware of that, Maree?

4 A. No, I wasn't, actually. Has it closed? Okay.

5 Q. That, I guess, will further emphasise this reduction in  
6 the available accommodation and potentially staff too?

7 A. Yes, it will.

8 Q. Moving on, then, to -- I beg your pardon, it is not  
9 a passage, it is page 21, please.

10 This is just really a summary, I think, noting again  
11 that children and young people living in residential  
12 child care services have decreased, but at the same time  
13 the number of staff has increased. We have seen that  
14 from the tables above. Again, does that imply anything  
15 about staff, the ratio of staff to children, or can we  
16 not tell that from these figures?

17 A. I think to me that is demonstrating that drive towards  
18 children being in smaller settings, and therefore there  
19 would be a higher ratio of staff to children.

20 Q. All right, thank you.

21 A. As I say, the Care Inspectorate will, I think, have  
22 clearer evidence, I suspect, on that.

23 Q. All right, we can ask them about that.

24 Over the page to page 22, please. That's the  
25 conclusion and future actions. In the second

1 substantive paragraph there:

2 "The reasons for this are not immediately apparent."

3 Is it possible to say anything about why there has  
4 been this substantial staff increase while the numbers  
5 of children has fallen, albeit fairly slightly?

6 A. Yes, I think I appreciate the report is saying it is not  
7 immediately apparent, but it is confirming that  
8 reflection that there has been a move towards children  
9 being in smaller, more homely environments, which will  
10 necessitate then that higher ratio.

11 Q. Yes. Scroll down again, please. I think you also  
12 highlight there that there are differences in the  
13 distribution of residential child care services across  
14 Local Authorities. It does seem that there are  
15 differing levels of provision in different Local  
16 Authority areas; is that right?

17 A. Yes, yes.

18 Q. All right.

19 You then go on to look at the future actions. So  
20 the first one is:

21 "Discuss with the Scottish Government the  
22 possibility of standardising definitions to ensure that  
23 data can be more fully compared with data on the  
24 workforce."

25 This is in essence a work in progress, is that fair

1 to say?

2 A. Yes, definitely.

3 Q. All right, thank you.

4 LADY SMITH: Again, interestingly you highlight the  
5 importance, I think, of collaborative working, not just  
6 with the Care Inspectorate, but also with Scottish  
7 Government, so that they can share with you anything,  
8 that they can properly disclose about their thinking --

9 A. Yes, my Lady.

10 LADY SMITH: -- their policy changes and suchlike.

11 MR SHELDON: Thank you, my Lady.

12 LADY SMITH: Mr Sheldon.

13 MR SHELDON: Just to round this off, at paragraph 5 there  
14 you are intending to:

15 "Undertake analysis of SSSC registration data to  
16 better understand the movement of staff within the  
17 sector."

18 I think that's perhaps coming back to the point  
19 about where are these staff going, what happens to them,  
20 do they move within the sector or do they move out of it  
21 altogether. I think it would be very helpful to know  
22 more about that if there are decisions to be made about  
23 resourcing, particularly in secure care. Can you give  
24 us any indication of how long work on that project might  
25 now take?

1 A. We have started work on that, focusing on adult social  
2 care at the moment, where there are more critical  
3 recruitment challenges. And have been doing that work  
4 of looking at if people are indeed moving from the  
5 private and voluntary sector into public providers. So  
6 now we have been doing that work, we will be moving on  
7 over the course of this financial year to the end of,  
8 probably, April to look at other parts of the register.  
9 We will hopefully have information we will be able to  
10 provide to the Inquiry before this phase is concluded.

11 Q. All right, thank you very much.

12 If we can move on, then, to section D. This is,  
13 well, I think it must be page 6 -- is it page 6? My  
14 pagination is slightly out, I'm afraid.

15 Sorry, I beg your pardon, we are now back to  
16 SSC-000000046. Yes, so it is the section about  
17 qualification requirements. I think we know from your  
18 previous evidence that social workers have to be  
19 qualified before applying for registration.

20 13:

21 "All other register parts are defined by employment  
22 status. They can only apply for registration once in  
23 eligible employment."

24 That's back to the point about the six-month grace  
25 period?

1 A. Yes.

2 Q. And they only remain on the register if employed in that  
3 eligible employment.

4 On the next page, again, you have a table which sets  
5 out the relevant qualification standards. So SCQF  
6 level 9 or 10 for management posts.

7 I beg your pardon, I am now on page 8, so it may be  
8 page 7?

9 LADY SMITH: 7, yes.

10 MR SHELDON: Yes.

11 LADY SMITH: You need to go up, because there are two  
12 paragraphs above 16.

13 MR SHELDON: If we can navigate our way back to section D,  
14 which is headed "Qualification requirements". That's  
15 page 6. Then, just scrolling down, I think we see the  
16 table there.

17 LADY SMITH: Yes.

18 MR SHELDON: Thank you very much. That's telling us that of  
19 course social workers require a BA degree in social  
20 work, and there are various qualification levels for  
21 managers, supervisors and workers. Broadly speaking,  
22 management and supervisory posts are level 9 or in some  
23 cases 10. At present workers it is level 7, SVQ  
24 level 7.

25 A. Yes.

1 Q. But in all cases we have again the five-year period for  
2 them to gain whatever qualification is necessary?

3 A. Yes.

4 Q. And we have talked about that a little already.

5 At paragraph 14, just below the table, you note that  
6 the relevant practice area for the level 7 award for  
7 those working in secure or residential care is  
8 practitioner, children and young people in secure or  
9 residential care.

10 It won't actually do it in this hearing setting, but  
11 do we understand that the heading "Practitioner,  
12 children and young people" and so on, it is  
13 a hyperlink --

14 A. Yes, that's right.

15 Q. -- to your web page?

16 A. Yes, that's right.

17 Q. Does that web page give details of the modules that form  
18 that particular course, leading to the qualification?

19 A. I think it does. Or it may then take you on to, I think  
20 it is the SQA have a website that contains the National  
21 Occupational Standards that have the core units for  
22 these different qualifications.

23 Q. All right, thank you. You refer in the second line of  
24 paragraph 14 to the core units, HSC034. That's  
25 promoting safeguarding, and that's perhaps an obvious

1 one.

2 You also mention another core unit, which is  
3 promoting effective communication. It is perhaps  
4 an obvious question, but why is that thought to be  
5 an important element of that particular module, or  
6 particular course?

7 A. The promoting effective communication?

8 Q. Yes.

9 A. Just because of the importance if you are dealing with  
10 children, particularly if they are in secure or  
11 residential care, and will have challenging backgrounds,  
12 possibly challenging behaviour, that to be able to  
13 communicate effectively with them is just going to be so  
14 crucial.

15 Q. You note in particular that what's thought to be  
16 important in that context is communication in a way that  
17 shows that the worker values and respects the child; is  
18 that right?

19 A. Yes, that's right, yes.

20 Q. Am I right in thinking that that there is another module  
21 in that course which is about developing practice  
22 through reflection and learning?

23 A. Yes, I think that's right.

24 Q. All right. Thank you. Again, perhaps you can just talk  
25 us through why that is thought to be an important

1 element of that particular course?

2 A. Yes, reflective practice is important across all of the  
3 qualifications for the workforce. We consider that it  
4 is absolutely crucial that people are able to reflect on  
5 their experience and that's one of the best ways of  
6 learning from it and developing improved practice.

7 Q. Is there any significance of that, or is that  
8 a philosophy, as it were, which is taken through to the  
9 disciplinary process, and the sanctions process in  
10 particular?

11 A. Yes, a philosophy is perhaps a good way to define it and  
12 it is indeed taken through to the fitness to practise  
13 process.

14 Q. So that one option in a disciplinary hearing, or after  
15 a disciplinary hearing, depending on the seriousness of  
16 what's occurred, that a condition of continued  
17 registration might be a period of reflection, practice  
18 and so on?

19 A. Yes, that's quite common, that an outcome from a fitness  
20 to practise investigation would be a requirement to  
21 complete a reflective account, or indeed it may be that  
22 a potentially serious concern would be something that  
23 would not result in a sanction if the practitioner had  
24 already reflected deeply upon it and was able to provide  
25 reassurance that through that reflection they understood



1 the seriousness, and that the behaviour wouldn't be  
2 repeated.

3 LADY SMITH: Maree, you just referred to a requirement to  
4 keep a reflective account. Tell me a little more about  
5 that.

6 A. Yes, so a condition -- one of the sanctions through the  
7 fitness to practise process can be a condition, and one  
8 of the conditions that is regularly used is  
9 a requirement that people complete a reflective account,  
10 where they talk about whatever it was that happened,  
11 their reflections on it now, how they would give  
12 a reassurance that it wouldn't happen again, and that  
13 reflective account is then assessed by SSSC staff to  
14 ensure that they feel that that is adequately showing  
15 that the public could be reassured that the behaviour  
16 wouldn't be repeated.

17 LADY SMITH: Is that an account that they are expected to  
18 put into writing, or is it gathered at a meeting with  
19 them?

20 A. It is expected to be submitted, normally in writing but  
21 if an individual found another method was more  
22 appropriate for them we would accept another form. But,  
23 yes, it is something that is completed by them,  
24 submitted afterwards and then assessed by our staff.

25 LADY SMITH: When you say reflective practice is important

1 across all the qualifications for your workforce, are  
2 you talking about that being a routine that should be  
3 part of their working life?

4 A. Yes. We expect that that is something that's embedded  
5 as an approach through qualification, through all of the  
6 qualifications, but also we expect as part of continuous  
7 professional learning that a big part of that is about  
8 reflecting on your practice and thinking about how you  
9 would improve it.

10 LADY SMITH: Are there any particular ways in which you  
11 expect them to carry out the reflective practice?

12 A. I don't think we currently mandate any particular ways,  
13 I think it is quite broad, whether people are doing it  
14 in peer groups, with their line manager, yes, different  
15 ways.

16 LADY SMITH: Thank you.

17 MR SHELDON: If I may just follow up briefly on that, Maree,  
18 do we take it that there is no requirement to keep  
19 a logbook in the same way that a pilot might have to  
20 keep a log of every flight, and so on?

21 A. You are required to keep a log of your continuous  
22 professional learning, and the SSSC does sample --

23 Q. All right.

24 A. -- people's continuous professional learning, in  
25 a similar way to the Law Society.

1 Q. All right thank you.

2           Moving on to paragraph 15, you note, and I think you  
3 gave some evidence about this in a previous hearing, you  
4 note that you developed the standard for residential  
5 child care as a new benchmark to underpin a level 9  
6 award for the whole residential child care workforce.  
7 Just pausing briefly, if that was to come to pass that  
8 would mean that the table that we have just seen would  
9 essentially have level 9 qualifications for all these  
10 categories of worker, is that right?

11 A. Yes, that's right. The practice qualification for all  
12 of them would be level 9.

13 Q. All right.

14           You note, again paragraph 15:

15           "This arose out of the Scottish Government's  
16 acceptance of the recommendations of the National  
17 Residential Child Care Initiative report in 2009."

18           And again:

19           "In November 2016, the Scottish Government decided  
20 to pause implementation pending the Independent Care  
21 Review. The [ICR] did not make a specific  
22 recommendation and the Scottish Government have not yet  
23 decided on implementation."

24           I want to look at that a little bit, and there are  
25 perhaps a number of documents to look at surrounding

1 this issue. If I can ask you first of all to look at  
2 SSC-000000051, this is a document from a Council agenda,  
3 a Council report, in January 2017. I think this gives,  
4 really, an account or an update on the progress, or lack  
5 of it, towards the national standard, is that right?

6 A. Yes, that's right.

7 LADY SMITH: Just for the transcript, this is a SSSC  
8 document?

9 MR SHELDON: It is a SSSC document, my Lady. We can see  
10 that it is a report intended to provide the Council with  
11 an update on progress with implementing the level 9  
12 qualification. I will try to get that in front of me as  
13 well.

14 LADY SMITH: The October 2016 announcement of Scottish  
15 Government referred to is, of course, the announcement  
16 of the establishment of the Independent Care Review?

17 A. Yes, my Lady.

18 MR SHELDON: Thank you, my Lady, yes, we will see that in  
19 a moment.

20 We can scroll down, please. I think there is  
21 a summary on that page. I hope there is. All right,  
22 let's try page 2, please. Yes, there is some background  
23 there:

24 "The National Residential Child Care Initiative ...  
25 set up by the Scottish Government ... identified key

1 principles for residential child care ... in particular  
2 it specified suggested changes to qualifications."

3 Paragraph 1.2:

4 "Given the increasingly complex needs of children  
5 and young people and the professional tasks that require  
6 high-level abilities, the report proposed that a minimum  
7 level of education be set at SCQF level 9."

8 Essentially for all workers, and that was thought to  
9 be something that would equip the workforce to undertake  
10 their work effectively and lead to better outcomes.

11 I think we see at 1.3, 2012, the Scottish Government  
12 accepted the recommendations of that report in full, and  
13 the SSSC was asked to develop a benchmark level 9  
14 standard. That's what became the 2016 residential child  
15 care standard; is that right?

16 A. Yes, that's right.

17 Q. You note at paragraph 1.5:

18 "There are two routes to achieving the new level 9  
19 qualification. There was a degree in residential child  
20 care [which was to be a university programme]."

21 But there were also to be opportunities for delivery  
22 in a number of settings, such as colleges as well as  
23 employers who have a learning and development  
24 department.

25 Perhaps you can just explain that a little, these

1 different pathways to potentially obtaining this  
2 qualification?

3 A. Yes, so I think the university programme would be  
4 a traditional degree programme run by a university,  
5 where people would be able to do it whilst working, but  
6 would be in that university setting.

7 Whereas the PDA would be much more as we spoke  
8 earlier about, where it would be a practice-based  
9 qualification. You could run it yourself as  
10 an organisation. SQA would accredit you to deliver  
11 that, or, as it is saying, colleges also will run these  
12 types of PDA-type course. So I suppose a more flexible  
13 approach in terms of particularly timing of when you  
14 were carrying out various modules, if you are doing it  
15 through that more PDA approach.

16 LADY SMITH: Sorry, PDA?

17 A. I think it is Professional --

18 LADY SMITH: Professional Development Award.

19 A. Yes.

20 LADY SMITH: Thank you.

21 MR SHELDON: Thank you, my Lady.

22 That's really a way of trying to ensure that the  
23 course can fit around people's lives?

24 A. Yes, that's right.

25 Q. If we can move on then, please, to paragraph 2.2, which

1 I think is going to be over the page. Yes, there we  
2 are.

3 We have the Minister for Children and Young People  
4 issuing a letter in March 2016 confirming requirements  
5 and timescales for the implementation of this new  
6 registration requirement.

7 Implementation, 2.3, was scheduled to be introduced  
8 on a phased basis, starting October 2017, first of all  
9 for managers and supervisors.

10 2.4, agreement was reached with learning providers.

11 Do we understand that, really, everything was set to  
12 go?

13 A. Yes, that's right.

14 Q. All right. If we then scroll down to paragraph 3,  
15 please. 3.1:

16 "On 15 October 2016 ..."

17 This is really just six months later:

18 "... the First Minister, in her closing speech to  
19 the SNP conference, committed to the comprehensive  
20 review of the care system for looked after children."

21 3.2, November 2016, the Scottish Government informed  
22 the short-life working group ..."

23 That's the working group working on this  
24 qualification; is that right?

25 A. Yes, that's right, yes.

1 Q. "... that they were delivering the scope and  
2 specification of the review and pausing existing  
3 activity in this area."

4 That included pausing implementation of the level 9  
5 residential child care award?

6 A. Yes.

7 Q. Down again, please, to 4.1. You note there:

8 "The current hiatus in implementation ... presents  
9 a number of issues for employers and learning  
10 providers."

11 4.2:

12 "In order to facilitate the new registration  
13 requirements, learning providers would need to begin the  
14 process for approval by the SSSC."

15 Perhaps taking this short, if we can, is the issue  
16 there that learning providers really have to start  
17 planning for this --

18 A. Yes.

19 Q. -- if they are going to do it?

20 A. Yes, definitely.

21 Q. And in the absence of clarity, that was difficult?

22 A. Yes.

23 Q. 5.1, please. Just at the foot there, yes, thank you:

24 "The cost of the work will be delivered from within  
25 existing staffing resources. Provision has been made in



1 the draft budget ... to support work ... a further  
2 update will be brought to Council on the financial  
3 implications of the review ... once the detail is  
4 known."

5 There was to be a further update, but has there been  
6 anything further to report in the meantime?

7 A. No, there hasn't been anything further to report. We  
8 have asked Scottish Government their intentions and are  
9 waiting to hear from them in terms of a decision on  
10 implementing that.

11 Q. All right. When was that request, or that enquiry,  
12 made?

13 A. I think we asked after -- after The Promise came out we  
14 raised, either in 2020 or 2021, that this was still  
15 an outstanding matter for Scottish Government, and  
16 raised again a few months ago, I think.

17 Q. Right. The Promise came out, I think, in about  
18 February 2020?

19 A. Yes, just before the pandemic, yes.

20 Q. All right, thank you.

21 If we can pass then to the standard itself. It is  
22 INQ-000000765. I think, taking this short, initially  
23 would it be fair to say this lays out, this sets out  
24 various values, knowledge, competencies, expected of  
25 practitioners and seeks to set out guidelines for

1 courses leading to degree level qualifications?

2 A. Yes, that's right.

3 Q. We heard, I think, from your colleague Lorraine Gray in  
4 the boarding schools hearings about consultation with  
5 relevant groups to set qualifications for particular  
6 parts of the workforce. Was that done in relation to  
7 this document too?

8 A. Yes, I wasn't involved myself, but, yes, there would  
9 have been consultation prior to production of it.

10 Q. Thank you.

11 LADY SMITH: Just to tie this, this is the document referred  
12 to in paragraph 15 in document 46?

13 MR SHELDON: Perhaps we should just confirm that, Maree. Is  
14 this the document you are referring to?

15 A. Yes.

16 Q. I appreciate there is a slight discrepancy about the  
17 date.

18 LADY SMITH: Well, that is what I was wondering.

19 A. Yes, I was as well.

20 LADY SMITH: It may be that you finished the document in  
21 2015 but it actually only went into action the following  
22 year.

23 A. Yes, I think that's correct, my Lady.

24 LADY SMITH: Would that fit?

25 A. Yes.

1 LADY SMITH: You say in 2016 you developed the standard as  
2 the new benchmark.

3 MR SHELDON: I dare say, Maree, that the development of the  
4 standard took some time before it was ready to go, which  
5 was 2016, is that the right way of looking at it?

6 A. Yes, that's right. I am noting that obviously Scottish  
7 Government accepted the recommendations from the NRCCI  
8 in 2012, and subsequently asked us to start that work.  
9 So I think we would have been working on that quite  
10 quickly thereafter.

11 Q. Yes. If we can look, please, at first of all page 3 and  
12 this is the ministerial foreword. I just want to look  
13 quickly at paragraph 2, it is the second substantive  
14 paragraph, yes, "The National Residential Child Care  
15 Initiative". This is noting that the NRCCI had  
16 reported:

17 "In order to meet increasingly complex needs of  
18 children in ... care, all residential child care staff  
19 should be better qualified. I am pleased that the  
20 standard for residential child care, a significant part  
21 of achieving this aspiration, has now been published."

22 Just moving on to the next paragraph:

23 "I am sure that the new qualification will help to  
24 strengthen practice across the sector. It also needs to  
25 reach people in every geographical location."

1           The next paragraph again:

2           "The challenges set for the residential child care  
3 workforce in the last decade around qualifications ...  
4 have been considerable and I am impressed by the  
5 commitment and ability shown by those providing and  
6 working in residential child care to rise to these  
7 challenges."

8           The last paragraph there he says:

9           "I want to make sure we have confident, competent  
10 and dedicated workers contributing towards positive  
11 outcomes for children and families and providing the  
12 types of high quality services they need. That is why  
13 I am committed to a programme to improve their status  
14 and professionalism, which is advanced by the  
15 publication of this standard."

16           That's what the minister is saying on publication of  
17 this standard. That was March 2016?

18 A. That's right.

19 Q. We see that the Scottish Government, in essence, paused  
20 things about six months later, in November 2016. So  
21 they have applied the brakes pretty sharply, haven't  
22 they?

23 A. Yes.

24 LADY SMITH: Which minister was it at the time the  
25 ministerial foreword was written?

1 MR SHELDON: You can see there, my Lady, it is  
2 Mark McDonald, the Minister for Childcare.

3 LADY SMITH: Mark McDonald. Had there been a change of  
4 minister by the end of the year?

5 A. I can't remember if it happened by the end of the year,  
6 I can't remember the exact dates, my Lady.

7 LADY SMITH: We can check.

8 MR SHELDON: I don't have a note of that here, my Lady, but  
9 I think there may be another document that shows who the  
10 new minister was.

11 LADY SMITH: Yes, it won't be difficult to identify.

12 MR SHELDON: Yes.

13 Maree, I don't propose to go through the whole  
14 document, it is lengthy, but I think I am right in  
15 saying that it contains the standards to be expected of  
16 practitioners in the field, and guidelines. So  
17 standards and guidelines, essentially?

18 A. Yes.

19 Q. Can I just ask you, how does this relate to the National  
20 Occupational Standards, which I think you have given  
21 evidence about before?

22 A. Yes, so I think the National Occupational Standards will  
23 feed into what is then in this, yes, in this standard.

24 Q. All right. If we go quickly, actually, please, to  
25 page 25, just to cover that point. Yes, 3.3:

1           "The standard is defined in terms of descriptors of  
2           SCQF level 9."

3           We then see a list of documents and standards. Can  
4           we look at these, as it were, as the building blocks for  
5           the National Occupational Standards?

6   A. Yes, I think the National Occupational Standards are  
7           part of the building blocks for this standard of  
8           residential child care yes.

9   Q. I beg your pardon, yes, I'm obliged.

10           Just to give an idea of the content of the document,  
11           if we go, please, to page 5. I think we see there that,  
12           at 1.2.1, the standard is made up of benchmarks and  
13           expected features:

14           "The benchmarks specify what is expected of  
15           a learner who has completed a degree-level programme in  
16           residential child care."

17           The benchmark specified the design requirements of  
18           the programmes.

19           1.2.2:

20           "The expected features are intended to clarify and  
21           illustrate aspects of learner performance that the  
22           programme is designed to achieve. These are the  
23           features to be used by programme providers in designing  
24           assessment strategies ... expected features are in  
25           numbered points following each benchmark."

1           If we just scroll down we see there under the  
2 heading, paragraph 2, "Professional values and personal  
3 commitment", 2.1:

4           "Practitioners share an ethical framework of values  
5 and principles."

6           2.1.1:

7           "They recognise that building relationships and  
8 promoting children's rights are cornerstones of ethical  
9 practice in caring for children and young people."

10          There is a number, then, of points there.

11          Should we understand that the type, the bold type,  
12 is the benchmark and the bullet points, as it were, are  
13 the expected features?

14 A. Yes, I actually am not sure I can answer that question.

15 Q. All right.

16 A. My apologies.

17 Q. It certainly appears from the way it is set out that the  
18 overarching principle, the overarching idea, is that  
19 practitioners should share an ethical framework of  
20 values and principles. I dare say one would certainly  
21 hope that were the case?

22 A. Yes, absolutely.

23 Q. But then in making up that shared framework there are  
24 a number of features, or factors, which would be  
25 desirable in achieving that shared value?

1 A. Yes.

2 LADY SMITH: Maree, I am interested in 2.1.4, which  
3 highlights that SSSC believe that professional values  
4 and beliefs won't automatically be the same as  
5 a person's personal values and beliefs, and it may be  
6 that there is a tension between the two that requires to  
7 be resolved. I'm sorry to throw this at you without  
8 warning, but are you able to give me an example of when  
9 that might happen?

10 A. Yes, I can, from a case in England where there was  
11 a social work student with Christian beliefs regarding  
12 gay marriage, and how that would interface then with  
13 being a social worker practising, perhaps, with a gay  
14 married couple.

15 LADY SMITH: Where the gay married couple were entitled to  
16 the same respect, the same provision of services and the  
17 same standards as anybody else?

18 A. Yes, that's right.

19 LADY SMITH: Of course, thank you.

20 MR SHELDON: Thank you, my Lady, that's helpful.

21 LADY SMITH: A helpful example.

22 MR SHELDON: I think we see that's the general layout of the  
23 standard.

24 If I can just round this off by going to page 22,  
25 please. These are guidelines for programmes leading to



1 a degree-level award in residential child care. The  
2 standard notes:

3 "The purpose of the guidelines which are intended to  
4 support the development and delivery of programmes of  
5 learning that will enable participants to demonstrate  
6 knowledge, skills and values, and the development of  
7 an integrated qualifications and professional  
8 development framework."

9 If I can just take you to what is said at  
10 paragraph 2.1, which is part of the policy context.  
11 This refers back again to the NRCCI report, the  
12 residential child care report of 2009. I think again we  
13 see this quote:

14 "The changing profile of children in residential  
15 child care and the complexity of their needs demand  
16 an increasingly skilled, competent, confident and  
17 qualified workforce. Bringing about a culture change  
18 that recognises the strategic role of residential care  
19 and values its potential to make a real difference to  
20 the lives of children and young people requires greater  
21 aspirations for and expectations of the workforce."

22 Is the purpose of quoting that again just to drive  
23 home the purpose, the dynamic, behind the formation of  
24 this standard?

25 A. Yes, I think so.

1 Q. Just to round that off, I think the next paragraph  
2 notes:

3 "There can be few more important and challenging  
4 tasks than caring for some of the most vulnerable and  
5 troubled children and young people in our society. We  
6 must recognise the importance of this work in the  
7 aspirations we have for this workforce."

8 Is the view taken, certainly in this standard, that  
9 because of these difficulties, because of the  
10 vulnerabilities and troubles that some children may  
11 have, that that is a reason to have a workforce which is  
12 even more qualified than it currently is?

13 A. Yes, that's right.

14 Q. Thank you.

15 We can put that document aside and go back to  
16 SSC-000000046 now. I hope this is now on page 9, which  
17 should be a --

18 LADY SMITH: Which section is it?

19 MR SHELDON: It is still in section D, my Lady, but it is  
20 a table showing the percentage of individuals who have  
21 qualified.

22 LADY SMITH: Try 7.

23 MR SHELDON: Try page --

24 LADY SMITH: 7. Going down to about halfway down, is that  
25 it? Is that what you are looking for?

1 MR SHELDON: That's the one, yes.

2 LADY SMITH: Thank you.

3 MR SHELDON: Thank you, my Lady.

4 That just shows the percentage of individuals who  
5 are qualified. I think we see that the most qualified,  
6 or the highest percentage of qualified workers are those  
7 working in day care of children?

8 A. Yes, that's right.

9 Q. And then adult day care. But residential school care  
10 accommodation, residential child care, these are down,  
11 still down, at the 48/50 per cent mark?

12 A. Yes, that's right.

13 Q. I think we have dealt already with the issue of how that  
14 might be increased still further.

15 A. Yes, yes we have.

16 Q. Thank you.

17 Moving on, then, to section E, which is about the  
18 codes of practice. Again, Maree, I think this is  
19 something you have given evidence about on previous  
20 occasions --

21 A. Yes.

22 Q. -- to this Inquiry. I just want to look at this in  
23 a little bit of detail, because I think you are  
24 currently carrying out a review of the codes. You say  
25 that the current code of practice, I think, is the 2016

1 code of practice?

2 A. Yes, that's right. We have consulted on a revised  
3 draft, analysing the outcome of that consultation, and  
4 we are expecting that a finalised draft will go to our  
5 Council for approval, probably in February.

6 Q. All right, thank you. Since you mentioned the  
7 timescale -- I was going to ask you about this later --  
8 but I think it is currently out to consultation?

9 A. It has just concluded the consultation.

10 Q. All right. Are you in a position to tell us anything  
11 about the results of the consultation, about the  
12 feedback that you have received for the proposed  
13 changes?

14 I will come on to the proposed changes in a moment,  
15 my Lady.

16 LADY SMITH: Thank you.

17 A. Yes, I think generally the feedback is positive. There  
18 are some questions about some of the language used  
19 around the code is moving away from -- is proposing  
20 moving away from "service user" to just referencing  
21 "individuals", and there is a question over whether that  
22 would be appropriate and would work effectively, and  
23 also some questions about introducing concepts around  
24 kindness into a code of practice, and how you would  
25 measure those concepts, and, potentially, if required,

1 establish, for example within a fitness to practise  
2 process, whether someone had been kind or not, for  
3 example.

4 Q. Yes.

5 A. Those are the general themes I understand are coming out  
6 of the consultation.

7 Q. Yes, because I think we understand from your evidence  
8 previously that the codes of practice are an important,  
9 perhaps an essential, element in fitness to practise  
10 cases?

11 A. Yes, that's right.

12 Q. The decision in any fitness to practise case would  
13 normally quote passages from the code of practice --

14 A. Yes.

15 Q. -- which it is decided that the individual registrant  
16 has contravened?

17 A. Yes, that's right.

18 Q. I suppose one has to be quite careful about what's in  
19 the code of practice, because one wouldn't, perhaps,  
20 want to penalise people or require them to do something  
21 which might be either extremely difficult or extremely  
22 vague?

23 A. Yes, that's right.

24 Q. If we can look, please, at, well, actually, first of  
25 all, I'm sorry, you mentioned at paragraph 18 that the

1 review of the codes was a commitment made after the  
2 Independent Care Review published The Promise.

3 A. Yes.

4 Q. And The Promise, the ICR, again we saw that that seems  
5 to be the reason why the ministers paused development of  
6 the national standard?

7 A. Yes.

8 Q. Perhaps we can look at a little bit of The Promise, some  
9 passages from it, to give some context for what follows  
10 in relation to the codes of practice. If we can look,  
11 please, it is INQ-000000499, page 5. This is, by way of  
12 an introduction, noting:

13 "In October 2016, the First Minister made  
14 a commitment that Scotland would come together and love  
15 its most vulnerable children to give them the childhood  
16 they deserve. She announced an independent root and  
17 branch review ('the care review'), driven by those with  
18 experience of care."

19 Scroll down, please. Taking it a little bit short,  
20 it is noted -- yes, I'm sorry, just going from the top  
21 of that passage there:

22 "In the seven preceding years [that's preceding the  
23 care review] there had been six reviews into how  
24 Scotland cares for its children. Wise people had  
25 already documented the problems with the current care

1 system and worked hard to establish what needed to  
2 change. Yet their recommendations, based on a wealth of  
3 knowledge and understanding, did not lead to wholesale  
4 change. I spoke to the chairs of these reviews (and  
5 others) to learn about what had got in the way. They  
6 spoke of the lack of buy in for change, no money to  
7 invest in the necessary change, restrictive rules  
8 preventing change, not knowing how to make change and  
9 much more.

10 "So the care review had to be different, starting  
11 with an unwavering commitment to make sure the  
12 care-experienced community would be at its very heart.  
13 It was important to ensure a full and proper  
14 understanding of how the care system feels and what it  
15 is that children and families really need to flourish."

16 Scrolling down, please. So that commitment has been  
17 a constant since the inauguration really of the care  
18 review.

19 Move, please, to page 7. It is noted:

20 "The care review had listened to 5,500 experiences  
21 ... half of which were children and young people and the  
22 remaining voices came from the paid and unpaid  
23 workforce."

24 Scrolling down, please:

25 "It was their stories that guided the care review

1 and their experiences that have shaped everything that  
2 the ... review has concluded."

3 Yes, just at the foot there:

4 "It is clear that Scotland must not aim to fix  
5 a broken system, but set a higher collective ambition  
6 that enables loving, supportive and nurturing  
7 relationships as a basis on which to thrive."

8 Moving to page 9, please. It is noted:

9 "Overcoming trauma often requires a foundation of  
10 stable, nurturing and loving relationships, Scotland's  
11 focus and understanding of risk must shift to understand  
12 the risk of not having stable, loving, safe  
13 relationships. Above all else, the care review has  
14 heard ... it is that children want to be loved and  
15 recovery from trauma is often built on a foundation of  
16 loving, caring relationships."

17 Moving on to the bold paragraph:

18 "However, the current care system is failing to  
19 provide that foundation for ... too many children.  
20 Scotland must care in a way that gives children every  
21 possible chance to experience love in their lives.

22 "Scotland cannot legislate for love and nor should  
23 it try. A legislative framework for love would be  
24 driven by an institutional view of love that could not  
25 possibly reflect the experience of being loved and cared



1           for."

2           Scroll down, please.

3   LADY SMITH: Just pausing there, of course you cannot

4           mandate that those who are registered with you will love

5           the children that they have to care for as part of their

6           work --

7   A. No.

8   LADY SMITH: -- nor indeed would it be appropriate to do so.

9           Would you agree with that?

10   A. Absolutely, my Lady.

11   LADY SMITH: Thank you.

12   MR SHELDON: Thank you, my Lady.

13   LADY SMITH: Mr Sheldon.

14   MR SHELDON: I just want to go to a few more passages of

15           this --

16   LADY SMITH: Please do carry on.

17   MR SHELDON: -- just to bring out some of the issues for

18           SSSC and perhaps others.

19           We have noted that the care review is saying there

20           has to be a fundamental shift in the primary purpose of

21           the whole of Scotland's care system, from protecting

22           against harm to protecting all safe, loving, respectful

23           relationships.

24   LADY SMITH: Promoting, facilitating, I suppose, is what

25           they are saying, isn't it?

1 MR SHELDON: Yes.

2 Over the page, page 10, please. This is said to be  
3 the foundations of The Promise. We can really scroll,  
4 I think, through these fairly quickly. Voice, family,  
5 people, care, scaffolding. Right at the foot, I think,  
6 under the heading "Scaffolding":

7 "Children, families and the workforce must be  
8 supported by a system that is there when it is needed.  
9 The scaffolding of help, support and accountability must  
10 be ready and responsive when it is required."

11 In the previous paragraph, headed "People", taking  
12 this short:

13 "People in the workforce and wider community in turn  
14 must be supported to listen and be compassionate in  
15 their decision making and care."

16 Page 12, please. That's just a note about the  
17 workforce. Scrolling down, please, to the passage  
18 headed "Good parent/corporate parent":

19 "Throughout this report there are demands that  
20 Scotland be a good parent for those it is responsible  
21 for. The system uses the term 'corporate parent' to  
22 refer to this. The care review has heard that this term  
23 feels demeaning and is an example of cold,  
24 process-driven relationships. The care review has  
25 avoided using this term."

1 I am going to come back to that, Maree, but you have  
2 a passage in your submission to this Inquiry about the  
3 issue of your status as corporate parents, so I want to  
4 come back to that.

5 In the meantime if we can move, please, to page 17  
6 in this document. Right at the top:

7 "Scotland must broaden its understanding of risk  
8 when making decisions about children and their  
9 families."

10 Just scrolling right down to the foot, I think it is  
11 the last paragraph. Yes, just from the top there:

12 "Removing a child from their family creates trauma  
13 for the child, the family and the community. If  
14 Scotland is to change the lives and futures of children  
15 there must be a change in policy, practice and  
16 communities to change the way we all think. There must  
17 be a reframing of the way Scotland thinks about risk,  
18 what to prioritise and how best to respond. Safe and  
19 loving relationships must be the starting point for  
20 Scotland's thinking about children. Scotland must  
21 understand the pervasive and persistent harm of a lack  
22 of loving relationships."

23 Taking the next paragraph short:

24 "The rules and procedures which Scotland has  
25 developed in residential child care have not always

1 prevented further harm and have had a significant impact  
2 in preventing caring and loving relationships from  
3 developing."

4 If we can go finally now, please, to page 23. This  
5 is the idea that the children that Scotland cares for  
6 must be actively supported to develop relationships with  
7 people in the workforce ... who in turn must be  
8 supported to listen and be compassionate in their  
9 decision making and care."

10 Reading over the next paragraph to the one starting  
11 "The workforce":

12 "The workforce must be supported to bring their  
13 whole selves to work so that their interaction with  
14 children is natural and relational."

15 Over the page, please, "Scotland's Promise":

16 "Supportive networks must be enabled."

17 Next paragraph:

18 "There are many stories of a teacher ..."

19 Sorry, I missed a passage in the previous paragraph:

20 "Friendships with peers must be actively encouraged  
21 and support for and trust in the judgment of the main  
22 carer rather than over reliance on risk protection  
23 procedures, such as police checks, before a child in  
24 care can go to a friend's house for a sleepover:

25 "There are many stories of a teacher or another

1 professional in a child's life providing a key  
2 relationship that has helped the child to recover.  
3 These are vital relationships that must be enabled. The  
4 wider workforce must feel that they have support and  
5 permission to connect and build unique relationships  
6 with children in their care, according to the needs and  
7 wants of each child.

8 "Too many times notions of professionalism have got  
9 in the way of the development and maintenance of  
10 relationships.

11 "There must not be an over reliance on the  
12 confidence and leadership of individuals to go beyond  
13 boundaries. This is insufficient in a context where the  
14 care review has heard many staff feel that being loving  
15 is undermining their professionalism. There must be  
16 a reassessment of professional guidelines and boundaries  
17 to make kind and loving behaviour the norm. Otherwise,  
18 the pressure for change is on those with the least power  
19 and reward in the system.

20 "There needs to be a strategic and holistic  
21 challenge to notions of professionalism in care. Clear  
22 expectations must be set."

23 I think, finally, page 25:

24 "There must be increased trust in the workforce to  
25 make meaningful connections based on instinct and

1 judgment with any associated process ...

2 "There must be a significant decluttering of  
3 guidelines and procedure -- giving clear permission to  
4 make connections and act in kindness. Guidelines must  
5 be targeted and necessary so that relationships take  
6 clear precedence over everything else."

7 So these are some passages from The Promise, Maree.  
8 I want to get your views and reactions to that in the  
9 context of what you do and the code of practice.

10 My Lady, I am conscious of the time. I wonder if  
11 that might be an appropriate time.

12 LADY SMITH: If we have stopped looking at quotations from  
13 The Promise now?

14 MR SHELDON: We have, yes.

15 LADY SMITH: Let's take the morning break now -- if that  
16 would work for you, Maree?

17 A. Yes, yes.

18 LADY SMITH: We will sit again in about a quarter of  
19 an hour.

20 Thank you.

21 (11.31 am)

22 (A short break)

23 (11.48 am)

24 LADY SMITH: Maree, are you ready for us to carry on?

25 A. Yes, thank you.

1 LADY SMITH: Thank you.

2 Mr Sheldon, when you are ready.

3 MR SHELDON: My Lady, thank you.

4 Maree, before we had our break we were looking at  
5 some passages from The Promise. Can I just go back  
6 briefly just to remind ourselves in this context of  
7 perhaps the critical passage, in this document it is  
8 page 24, INQ-000000499. It is the passage which begins  
9 "Too many times":

10 "Too many times, notions of professionalism have got  
11 in the way of the development and maintenance of  
12 relationships.

13 "There must not be an over reliance on the  
14 confidence and leadership of individuals to go beyond  
15 boundaries ... there must be a reassessment of  
16 professional guidelines and boundaries to make kind and  
17 loving behaviour the norm."

18 Maree, I am sure that we can agree that it would be  
19 ideal if kind and loving behaviour was the norm. I just  
20 want to ask you in the context of what you do as  
21 regulators and in dealing with fitness to practise  
22 issues what this type of material, this suggestion,  
23 means for that fitness to practise process?

24 A. I think the challenge is trying to ensure that you are  
25 taking action when an individual who is on the register

1 poses a risk to children, because the behaviour is going  
2 beyond what we think would be normal and good for  
3 a child in terms of being kind and loving and veering  
4 into something that might be abusive or put burdens on  
5 the child. And certainly through our fitness to  
6 practise work we see situations where you could view  
7 behaviour either as somebody who has breached the  
8 guidelines their employer has put in place in terms of  
9 how staff members should interact with children, and  
10 that may have come from a very good, kind and loving  
11 place, or it could be coming from a more concerning  
12 place.

13 I think that is where the challenge is, both for  
14 employers of the registered workforce and for us as the  
15 regulator in those situations: how do you decide whether  
16 the person is showing behaviour that is appropriate or  
17 not? I can think of quite a number of examples of cases  
18 that we have either taken action or not taken action  
19 over where you could have a debate about that.

20 LADY SMITH: Can you give me one or two examples?

21 A. Yes, yes, I could.

22 We have had cases where, for example, children have  
23 been taken out doing outward activities. And on some  
24 occasions that has ended up in very dangerous scenarios.  
25 On other occasions it hasn't. The reason, and I am



1 thinking of two specific cases where that happened, one  
2 was where there was no negative outcome and one was  
3 there was actually a very dangerous outcome for the  
4 children. In both of those situations the referral to  
5 us had come in because the residential child care  
6 workers involved had not carried out formal risk  
7 assessments. I know that part of the discussions we had  
8 with The Promise, with the Independent Care Review, was  
9 about that. Well, normally a parent taking a child out  
10 for a swim or up a mountain wouldn't be carrying out  
11 a formal risk assessment, but these situations can end  
12 up in very difficult circumstances. So that's one  
13 example.

14 Another example I can think of is situations where  
15 workers have crossed boundaries in terms of buying gifts  
16 for children, sending them text messages, seeing them  
17 outside of work, where their employer doesn't know. And  
18 things that may well have been what you would expect  
19 perhaps a parent or an older sibling to do and done from  
20 the best of intentions, but I have also seen ones where  
21 we have taken action and considered that to be grooming  
22 behaviour and leading towards something quite  
23 concerning, and statements from a particular child  
24 I remember talking about the burden it put on them to be  
25 the one receiving the gifts when other children weren't.

1           So really complex, I think, situations and decisions  
2           that the registered workforce have to make in these  
3           situations, and, as I say, employers and for us as the  
4           regulator.

5   LADY SMITH: Thank you, that's very helpful.

6   MR SHELDON: Thank you, my Lady.

7   LADY SMITH: Mr Sheldor.

8   MR SHELDON: Maree, I should perhaps have asked you this  
9           question right at the outset of this session: is the  
10          SSSC giving active consideration to the Independent Care  
11          Review, The Promise, and how to take that forward in  
12          professional practice?

13   A. Yes. So we are part of the workstreams The Promise has  
14          in terms of implementing The Promise, and we have  
15          specific commitments like reviewing the code of  
16          practice, implementing trauma-informed training across  
17          the staff in the SSSC and some specific work within  
18          fitness to practise to think about how to deal with  
19          children who may be witnesses, may be victims of abuse,  
20          where we are taking a case forward. How we deal with  
21          them sensitively in terms of their involvement with us.  
22          But also around that piece there is a question, because  
23          I think later on in The Promise it talks about  
24          regulators needing to put children and their views at  
25          the heart of decision making. But that can be

1 a challenge, because a child may have a view that they  
2 were very happy to have received presents, for example,  
3 and that actually they thought the relationship that  
4 they had with that worker was something that they really  
5 valued and wouldn't want to see any regulatory action  
6 being taken against the worker. But we may consider  
7 actually there is something concerning here we do need  
8 to take action about.

9 So trying to think about how to deal with that  
10 situation when you do have a child who has a particular  
11 perspective on a worker you may be taking action in  
12 relation to.

13 Then also thinking about some aspects around how  
14 children access and come into making a referral into the  
15 fitness to practise process. It is a very complicated  
16 process for adults to navigate, and we definitely have  
17 more to do to allow children to directly come into that  
18 process.

19 Also thinking about how we do that work for the  
20 staff making decisions around these really difficultly  
21 balanced cases, where there are very fine judgments that  
22 have to be made.

23 Q. Yes, I think, and coming back to the issue of  
24 boundaries, I think you are making the point -- if I am  
25 understanding you correctly -- that children's views of

1 boundaries may be rather different from an adult's view  
2 of boundaries, or at least a professional's view of  
3 boundaries. Is that a fair way of putting it?

4 A. Yes, definitely.

5 LADY SMITH: I suppose we might also take from the  
6 references in The Promise to what children are telling  
7 them that there is clearly an element of individual  
8 children wanting to feel special. Entirely  
9 understandable, given their circumstances.

10 A. Yes.

11 LADY SMITH: But, as I understand trauma-informed practice,  
12 that cannot be part of appropriate trauma-informed  
13 practice. No individual can be treated as special and  
14 more important than anybody else that the practitioner  
15 is providing a service to, albeit they need to feel  
16 safe, properly cared for, but in a way that does make  
17 clear what the boundaries are. Do I have that right?

18 A. Yes, yes, I believe so, my Lady.

19 LADY SMITH: Do you also take account of the fact that any  
20 professional working in an institution of the sort that  
21 we are looking at here may move on to another place, or  
22 another job, at any time, so there will be sudden  
23 disengagement, and it can be very harmful to a child to  
24 have given them the impression that this person will  
25 always be there for them, because they are special, and

1           then the person abandons them, as they may see it?

2   A.   Yes, absolutely.

3   LADY SMITH:  Thank you.

4           Mr Sheldon.

5   MR SHELDON:  Thank you, my Lady.

6           I perhaps don't want to labour this point, Maree,  
7           but I think we understand and we have seen, both from  
8           your previous evidence and from your submission in this  
9           case study, that really what the SSSC has been doing for  
10          the last 20 years or so has been increasing  
11          professionalism in the workforce, and indeed that's what  
12          it was designed to do, is that a fair way of putting it?

13  A.   Yes, yes, absolutely.

14  Q.   As we have seen again, there has been progress in that  
15          direction, albeit there is still a way to go,  
16          particularly for some categories of worker, in obtaining  
17          qualifications and so on.  But that is the general  
18          trend?

19  A.   Yes, it is.

20  Q.   It does seem, does it not, that there is a tension  
21          between that trend and what the Independent Care Review,  
22          The Promise, seems to be trying to say, to move away  
23          from professionalism.  Is that something that you have  
24          been grappling with in the SSSC?

25  A.   Yes, yes, absolutely.  There is definitely a tension

1       there. I think it is important to say we absolutely  
2       understand and recognise where The Promise is coming  
3       from, and what they heard from children, and just how  
4       difficult it is to try and I think achieve what it is  
5       they want to achieve. We absolutely understand that and  
6       want to work with them to do whatever we can around  
7       that, but there are very difficult decisions in amongst  
8       it.

9    Q. Among the workstreams, I think, that you have been  
10   taking forward in the light of The Promise is the  
11   revision to the codes of practice?

12   A. Yes.

13   Q. You have mentioned the consultation that you have been  
14   undertaking in the light of the proposed revisals.  
15   Perhaps we can just look briefly at the revisions.  
16   I think there are two parts, the code of practice for  
17   workers and the code for employers, is that right?

18   A. Yes, that's right.

19   Q. If we can look, please, first of all, at the code for  
20   workers, which is SSC-000000072.

21       Can we expand that just a little, please. Thank  
22   you. So that's just the introduction, "Proposed  
23   changes". The first line there just says:

24       "When we spoke to registrants, employers and  
25   stakeholders last year as part of the codes' review

1 engagement, you told us there was a lot you liked about  
2 the codes and also that we need to make some changes."

3 Can you just tell us in general terms what the  
4 suggested changes or the reasons why consultees thought  
5 that there should be some changes?

6 A. Yes.

7 I think the feedback was about trying to embed some  
8 of that more relationship values-based practice within  
9 the code.

10 Also, some changes to language in terms of making  
11 more positive statements.

12 Also trying to think about it through some of the  
13 work around bringing more around sort of discrimination  
14 and making more of a focus of that within the codes.

15 I think were the three main ones.

16 Q. All right. Just in the light of the discussion that we  
17 have been having, what were consultees saying about the  
18 codes' content in relation to relationship-type practice  
19 and so on?

20 A. I think a desire to see more in there that is supportive  
21 around kindness and compassion is one of the views. But  
22 also some tension or questions about, as I said earlier,  
23 if you are bringing that into the codes how do you  
24 measure that, how do you ensure people are being kinder,  
25 something that could be viewed as a sort of nebulous

1 concept.

2 Q. Yes. Certainly if one was thinking -- I think we have  
3 made this point before -- about disciplinary action,  
4 potentially, having a requirement to show kindness and  
5 compassion would be a difficult one to legislate for or  
6 to prosecute, potentially?

7 A. Yes, although happily some of the other professional  
8 regulators have gone before us in this and have brought  
9 into their codes of practice these types of concepts.  
10 I think the NMC now have it in their --

11 Q. I'm sorry, the NMC?

12 A. The Nursing and Midwifery Council. Yes, so there is  
13 definitely a trend in professional regulation to try to  
14 bring more of that into professional codes.

15 Q. All right, that is certainly interesting.

16 We may look into that, my Lady, further --

17 LADY SMITH: Yes, that would be helpful.

18 MR SHELDON: -- but it is interesting to know that that is  
19 apparently a direction of travel in this field.

20 Just to look at a few passages in the revisions, or  
21 the proposed revisions to the code of practice. Looking  
22 first, please, at page 1. Sorry, we have done that.

23 Page 2, just so we see at 1.1 there the original  
24 phrase in the code of practice was:

25 "Treat each person as an individual."



1           The proposed change is:

2           "Work with compassion and respect and treat each  
3           person as an individual."

4           So that's the proposed revision. Is this the kind  
5           of thing you are talking about, Maree, in terms of --

6   A. Yes, and I think that this was the draft that went out  
7           for consultation, I think, after the consultation, which  
8           has just recently concluded --

9   Q. All right, thank you.

10   A. -- we are currently considering adding "kindness" into  
11           1.1.

12   Q. Okay, okay.

13   LADY SMITH: How?

14   A. Oh, I think it is, "Work with kindness, compassion and  
15           respect" I think is what it says.

16   MR SHELDON: I think, if I have understood you correctly,  
17           that would reflect the type of wording that one sees  
18           with other regulators, like the NMC.

19   A. Yes, that's right.

20   Q. All right.

21           Just moving on then, to page 4, I don't want to take  
22           you through this whole document, but ... yes, it is 2.8.  
23           Actually, I'm sorry, can we scroll up the page. Yes,  
24           that's it. I think this is new wording. The  
25           undertaking, as it were, is that the worker will:

1            "... not exploit relationships or situations  
2 involving people who use services ... or others."

3            2.8.1:

4            "Ensure I maintain professional boundaries in my  
5 relationships at all times."

6            There is clearly a reiteration of the importance of  
7 boundaries there. Can you just give us an insight into  
8 the thinking behind that addition, and it is apparently  
9 an addition to the code?

10 A. I think when we look at our fitness to practise cases,  
11 professional boundaries is an issue that comes up as one  
12 of our categorisations of misconduct. The feedback from  
13 the sector is that they really want to see more around  
14 guidance about professional boundaries. I think that is  
15 something that is coming from the sector, really wanting  
16 to ... struggling, I suppose, with it just as we have  
17 talked about it here today, and wanting to see more  
18 around what a professional boundary is and how do they  
19 maintain it. So I think we are trying to reflect that  
20 into the codes.

21 Q. Is it proposed, though, we have seen what you have  
22 proposed in the code, but would it be proposed to  
23 produce guidance, more detailed guidance, about that  
24 issue, the issue of boundaries?

25 A. Yes, that is one of the things we are considering.

1 Q. All right, thank you.

2 Just to perhaps round that point off, or I hope so,  
3 I think it is page 8, please, paragraph 5.4, the  
4 original wording was:

5 "I will not form inappropriate relationships with  
6 people who use service."

7 The proposed change:

8 "Form open and positive relationships with people  
9 who use services or carers that respects their dignity,  
10 wellbeing and safety."

11 The note about that is:

12 "Supporting relationship-based practice."

13 Is that really again getting at this idea that The  
14 Promise is driving at, that this is an issue that  
15 requires to be taken forward?

16 A. Yes, yes, that's right. And trying to move things into  
17 much more positive focused language, building on it  
18 being a positive relationship rather than a rule about  
19 something you don't do.

20 Q. Again, at the risk of labouring the point, what are  
21 people saying about the overall thrust of these new  
22 guidelines in the code of practice? That you have the  
23 suggested changes about compassion, possibly kindness.  
24 You have the suggestion about boundaries and you also  
25 have the suggestion about relationship-based practice.

1 I just wonder if that creates a tension, and if that  
2 creates a difficulty for people reading these guidelines  
3 in the code of practice. Have you had any feedback  
4 about that?

5 A. I am not sure if we have had anything specifically  
6 around that, but as I have said, we have had questions  
7 about whether moving into an area that is more  
8 challenging around how you would define some of the  
9 language that would actually be implemented in practice.  
10 So we do still have work to do to analyse all of the  
11 responses from the consultation and come to a final view  
12 before we put a draft to our Council in February.

13 Q. All right.

14 A. I think that point you have made is one we will need to  
15 take back and think about.

16 MR SHELDON: All right.

17 LADY SMITH: Maree, are you saying that the direction not to  
18 form inappropriate relationships with people who use the  
19 services or carers will, according to current thinking,  
20 be deleted?

21 A. Yes, that's right, and would be replaced with a positive  
22 obligation.

23 LADY SMITH: And just replaced with 5.4?

24 A. That is the proposal.

25 LADY SMITH: Really?

1 A. That is what is being proposed. Although no final  
2 decisions have been made yet.

3 LADY SMITH: I just wonder if there is a risk of, to use  
4 a colloquialism, throwing the baby out with the  
5 bathwater there, on the basis that it is really  
6 important, is it not, to get the message across to  
7 a professional that they must avoid the formation of any  
8 inappropriate relationship.

9 A. I think certainly we can take that back and consider  
10 before putting a final draft to our Council.

11 LADY SMITH: Otherwise are you not going to walk into people  
12 saying, "Well, it may have turned out to be difficult  
13 and some might say inappropriate, but I was just  
14 following this standard that told me I had to form open  
15 relationships and positive relationships, that was all  
16 I was doing"?

17 A. I absolutely take the point you are making.

18 LADY SMITH: Thank you, I will leave it with you.

19 Mr Sheldon.

20 MR SHELDON: Thank you, my Lady.

21 If we can just move on to look briefly at the code  
22 for employers then, please. This is SSC-000000073.  
23 Again we have the title page which shows that there was  
24 a consultation, as it were, with registrants, employers,  
25 and so on. I just wanted to take you to a couple of

1 passages.

2 The first one I think is at page 8. This is about  
3 the obligation on a social service employer to have  
4 written policies and procedures in place, paragraph 4,  
5 to protect people who use services and carers and so on.

6 The proposed change to the wording is:

7 "To have written policies and procedures in place  
8 which support risk enablement and protect people who use  
9 services and carers, and to support workers."

10 Is that the right wording, Maree, "risk enablement",  
11 and if so what is meant by that?

12 A. Yes, so I think this is reflecting one of the themes  
13 that comes from The Promise about professionals being  
14 more open to risk in terms of people who use services.  
15 An example, I suppose, is going up a mountain, or for  
16 a swim in a loch, something that would be arguably risky  
17 behaviour, but an individual service user has the right  
18 to make choices themselves about the risk that they  
19 decide to expose themselves to. And if they want to go  
20 to swim in a loch, then they should be able to, along  
21 with people who aren't service users. So I think that's  
22 what that is trying to get to, that there needs to be  
23 appropriate risk enablement.

24 Q. All right. It is just that when I first saw that  
25 passage I rather assumed it was a misprint, and again

1 I think perhaps following up on Lady Smith's questions  
2 in relation to the workers' code, I just wonder whether  
3 there is a risk that that might be misunderstood. I am  
4 not saying that people would necessarily go off and  
5 engage in risky behaviour, but is that something that  
6 perhaps ought to be fleshed out a little?

7 A. I suppose this is coming from -- the code of practice is  
8 aimed at a profession, and the language that that  
9 profession uses, so "risk enablement" is something  
10 that --

11 Q. Oh, right, so that is a term of art?

12 A. Yes, absolutely, within the profession.

13 LADY SMITH: Where else would I find that term? I haven't  
14 come across it before.

15 A. Now I am thinking. Yes, I will need to come back to you  
16 on that point. I am just conscious that I have come  
17 across it a lot in my professional time working at the  
18 SSSC, as a concept I was unfamiliar with until I went to  
19 work at the SSSC and it is part of the paperwork we see  
20 regularly, as part of fitness to practise cases and the  
21 like, but I would need to come back to that.

22 LADY SMITH: Is it to do with not overreacting to risk, or  
23 the possibility of something bad happening by saying  
24 risks must never be taken, on the basis that that's no  
25 way to support a child, because children must be taught

1 to take risks.

2 A. Yes, yes.

3 LADY SMITH: To learn to inform themselves of the nature of  
4 the risks and in an appropriately supported way go into  
5 a cold loch, go up a rocky path on a mountain, but don't  
6 do it if the weather is wild, don't do it with the wrong  
7 footwear if you are going up a mountain, that sort of  
8 thing. I can understand that, but I just wonder if you  
9 need to revisit the way it is being explained.

10 A. We will certainly take that on board.

11 LADY SMITH: Thank you.

12 Mr Sheldon.

13 MR SHELDON: My Lady.

14 I think the only other passage I want to take you to  
15 in this document is at page 11. The original wording  
16 was paragraph 4.8:

17 "Make sure that where care has or may have caused  
18 physical, emotional, financial or material harm or loss,  
19 this is reported to the appropriate authorities."

20 The new proposed wording is:

21 "Report to the relevant authorities where care has  
22 or may have caused physical, emotional, financial or  
23 material harm or loss, or involved or resulted in any  
24 form of exploitation."

25 The note to that or the explanation to that is:



1           "The wording is more action focused."

2           Again, can I just ask you what the thinking was  
3           behind the rewording of that particular requirement? It  
4           is quite a complex construction of that phrase, but --

5   A.   Yes.  Yes, I'm afraid actually I can't explain why that  
6           explanation of "wording is more action focused" is  
7           there, because actually the significant change is the  
8           addition of the reference to "exploitation" rather than  
9           the action focused aspect to it.

10          Yes, I am sorry, I don't know why they have put that  
11          as "wording is more action focused".

12   Q.   Yes.  I had it in mind that you had an exchange with my  
13          colleague Andrew Brown, Mr Brown, who was asking you  
14          questions in the boarding schools study about the  
15          passage in your guidance and the question whether the  
16          appropriate wording would be "should report" or "must  
17          report".  I wondered whether this was a nod to that.

18   A.   Oh, okay, right.  Yes, rather than make sure ...

19   MR SHELDON:  My Lady, just for my Lady's reference that was  
20          TRN-8-000000083, pages 135 to 139.

21   LADY SMITH:  Yes, I knew it was quite late on.  Thank you.

22   MR SHELDON:  Sorry, Maree, I think you were just talking  
23          about that passage.  Can you recall or do you know  
24          whether that exchange was in the mind of the drafters of  
25          this document?

1 A. I am sure it was not in the minds of the drafters of  
2 this document.

3 Q. I just wonder, you know, whether it would be simpler  
4 simply to say, "You must report to the relevant  
5 authorities where care has or may have caused physical  
6 harm ..."

7 A. Yes, I think you are right, I think that would be  
8 clearer.

9 I think the change that has happened here is really  
10 about adding in the reference to the exploitation.

11 I think it is expanding the times when reporting should  
12 happen is the real sort of intent behind this change.

13 I think the explanation that the "wording is more action  
14 focused" is wrong, I think what should be in there is  
15 reference to trying to expand this to ensure that  
16 employers are looking beyond just physical, emotional,  
17 financial, material harm and looking at exploitation,  
18 a sort of more general concept, and whether that is  
19 something they have the requirement to report.

20 LADY SMITH: What about only stating that reporting is to  
21 take place where care has been the cause, rather than  
22 a failure in care or absence of care being added to  
23 care?

24 A. Yes.

25 LADY SMITH: It may be that people appreciate that that

1 covers caring or not caring, failing to care, I don't  
2 know.

3 A. Yes, I can understand the point you are making there.

4 LADY SMITH: Yes. Because it is more often that the failure  
5 to do something is going to have caused the harm than  
6 actually doing something, except in the case of  
7 exploitation.

8 A. Yes, or doing something but not doing it very well.

9 LADY SMITH: Well, indeed.

10 MR SHELDON: In fairness to you, Maree, if we can just look  
11 briefly at page 8 and over the page to page 9, there is  
12 a new code. Sorry, if we can just look back to page 8,  
13 briefly, please. It is at the foot. New code, 4.1,  
14 4.1.1:

15 "Have written policies in place in relation to risk  
16 enablement."

17 We have spoken about that.

18 4.1.1:

19 "Have written policies and procedures in place to  
20 protect and support individuals, workers and others."

21 Over the page, at the top:

22 "Put into practice and monitor policies and  
23 procedures relating to allegations of exploitation,  
24 harm, neglect or abuse."

25 There is another insertion there of references to

1 exploitation, I think is that, again, the thinking  
2 behind that?

3 A. That's right, yes.

4 Q. All right, thank you. I think you said that there will  
5 be further discussions about the consultation in January  
6 next year, is that the timescale?

7 A. I think it will go to Council in February for  
8 approval --

9 Q. All right.

10 A. -- so over the next few months there will be time spent  
11 looking at the outcome of the consultation and all the  
12 various comments people have made, including feedback  
13 from today's session.

14 Q. All right, with a view to publishing a draft code in  
15 April?

16 A. I think it is likely to be May the new code would come  
17 into force.

18 Q. All right, thank you.

19 We can set the code of practice aside now and if we  
20 move on to the next passage in your report, which is the  
21 common core, or relates to the common core. This is,  
22 I think, page 10. Sorry, this is back to SSC-000000046.  
23 It is heading section F, "Common core". On my copy it  
24 is page 11, but I think it may be page 10?

25 LADY SMITH: Even 8, possibly 8.

1 MR SHELDON: Go back, yes. It is before the section on  
2 corporate parenting. Back yet.

3 LADY SMITH: That's it. At the foot of that I think you  
4 will find it.

5 MR SHELDON: Yes. I am sorry about this, my Lady, it is  
6 technical glitches in my copy.

7 LADY SMITH: It is all right, we are getting there. I think  
8 between us we can find where it is.

9 MR SHELDON: We will iron it out.

10 Section F and you note:

11 "The common core is a framework of skills, knowledge  
12 and understanding and values for everyone in Scotland  
13 working with children and young people. In 2022 the  
14 Scottish Government asked the SSSC to lead on review of  
15 the common core as part of the commitments to deliver  
16 The Promise."

17 I think we understand from that that this document,  
18 the common core, is as a result of The Promise and the  
19 reaction to it?

20 A. Yes, I think the common core has been in place for quite  
21 a number of years, hasn't it? And reviewing it at this  
22 point in time has come about as a result of The Promise.

23 Q. All right. Perhaps we can just look at the document,  
24 please. It is SSC-000000074. If we can look first of  
25 all, please, at page 2. Again, this is a ministerial

1 foreword, and if we scroll to the foot we can see that  
2 this is a different minister, it is Aileen Campbell, so  
3 a change of minister from the last document we looked  
4 at, the standard, the national standard.

5 If we scroll back to the top we can see the  
6 Government setting out its aspiration that they want  
7 Scotland to be the best place in the world for children  
8 to grow up. In bold type:

9 "The people who work with children, young people and  
10 their families every day, who build up strong  
11 relationships and promote children's rights, are key to  
12 ensuring we achieve this vision."

13 Skipping over that paragraph for the moment, and  
14 going to:

15 "From the perspective of children, young people and  
16 their families, the common core describes what is  
17 fundamentally important to them, no matter what service  
18 they are using or their own circumstances or  
19 backgrounds. From the perspective of workers ... the  
20 common core describes the fundamentals that every worker  
21 should demonstrate and contains the basics needed to  
22 build positive relationships and promote children's  
23 rights."

24 Skipping a paragraph again:

25 "It is important to reflect on the areas within the

1 common core, either individually or in your teams, and  
2 this report contains examples of questions that will  
3 help the process of reflection. Sharing your thoughts  
4 and actions ... is a big part of the process and so  
5 I encourage you to sign up and use the GIRFEC knowledge  
6 hub."

7 Can you help us with whether this process that is  
8 being described here is as it were a mandatory one, or  
9 is it optional to respond and feed into the aspirations  
10 of the common core?

11 A. I think it is optional for teams to use it in the way  
12 that it is described, but the common core then forms one  
13 of those building blocks, so for example when we looked  
14 at the standard for residential child care, and you  
15 talked about the building blocks that led into that, the  
16 common core was one of them. The expectation would be  
17 that any development in terms of that learning piece  
18 across everyone who is working with children should use  
19 the common core to ensure that there is that, I suppose,  
20 golden thread running through all of the different  
21 approaches to training people who are working with  
22 children. I think was the intention behind the common  
23 core.

24 Q. All right. My next question was to be about the  
25 relationship between the residential child care

1 standard, so that's helpful, thank you.

2 If we can look, please, at page 3. This is  
3 an introduction from the Chair of the Common Skills  
4 Working Group. Thank you. This is just noting the  
5 goodwill and positive engagement around the process. In  
6 the second paragraph averting to the challenges it  
7 brings, it is noted:

8 "It would be fair to say that if you ask 100 people  
9 what should be in a common core of skills you will get  
10 100 different answers, and we did. However, among the  
11 suggestions there were certain themes that everyone  
12 agreed on. It's those areas of agreement that have made  
13 it into the final common core."

14 Then again in the next paragraph:

15 "The focus on relationships within the common core  
16 is one that I particularly welcome. Children and young  
17 people in families are experts when it comes to their  
18 own lives and as workers we need to tap into their  
19 knowledge and views by building meaningful relationships  
20 with them. I also believe the common core has the  
21 potential to act as a catalyst, inviting different parts  
22 of the children's sector to come together and improve  
23 connections."

24 Again, there is this emphasis on relationships, and  
25 is that a result or a reflection of The Promise and the



1 Independent Care Review?

2 A. I think this document pre-dates the Independent Care  
3 Review.

4 Q. I beg your pardon, yes.

5 A. Yes.

6 Q. Is this perhaps, as it were, the genesis or the germ of  
7 the idea that the Independent Care Review developed?

8 A. Yes, I think this reflected thinking that was developing  
9 that there needed to be more emphasis on relationships.

10 Q. Scroll down, please. We note:

11 "The common core is a tool for you to use as you see  
12 fit. We have included a number of  
13 self-reflection/discussion questions to help you use  
14 it."

15 I think you told us a moment ago that this really  
16 was one of the building blocks for, among other  
17 documents, the national standard?

18 A. Yes.

19 Q. So it has in fact been a tool that was used in that  
20 process?

21 A. Yes, that's right.

22 Q. All right, thank you.

23 All right, we can set that aside, please, and move  
24 to section G. This is back in SSC-000000046.

25 LADY SMITH: This is the corporate parents section?

1 MR SHELDON: Yes, my Lady, section G.

2 LADY SMITH: At page 8.

3 MR SHELDON: This will just be following on, so I think it  
4 must just be page 7.

5 LADY SMITH: 8, I think.

6 MR SHELDON: 8. I beg your pardon.

7 LADY SMITH: There it is.

8 MR SHELDON: In that section, Maree, you note that the SSSC  
9 is a corporate parent in terms of the 2014 Act. You  
10 note there the six duties, which I will come on to look  
11 at in a moment.

12 I just want to ask you again, though, about what's  
13 said in The Promise. You may remember the rather  
14 striking phrase that's used there, that the notion of  
15 corporate parenting is reflective of what they call  
16 a cold process-driven relationship. I just want to get  
17 your reaction to that and comment on it from your  
18 perspective as a regulator, as someone with particular  
19 duties under the Act.

20 A. Well, when we published our plan, our plans from 2020 to  
21 2023, we deliberately didn't call it our corporate  
22 parenting plan because of that feedback from The  
23 Promise, so it is called, "Realising potential: our plan  
24 for putting care-experienced children, young people and  
25 adults at the heart of what we do". So trying to

1 reflect the feedback that The Promise had from children  
2 about that language.

3 Q. If we can go to the document, it is SSC-000000070. You  
4 see there what you just told us, that it is entitled  
5 "Realising potential". It is a plan for putting  
6 care-experienced children at the heart of what you do.  
7 Perhaps if we can just look first of all at the  
8 foreword, which is by your then CEO, Lorraine Gray. She  
9 says there:

10 "The plan sets out our approach to putting  
11 Scotland's care-experienced children, young people and  
12 adults at the heart of everything we do. The report by  
13 the care review sets out the compelling and profound  
14 need to transform the care system for children, young  
15 people and adults ... the review highlights our  
16 collective role in a vision where we grow up loved, safe  
17 and respected so that we realise our full potential.  
18 The focus is now on keeping The Promise."

19 She says:

20 "We contribute to The Promise by making sure that  
21 Scotland can count on the services that are provided by  
22 a trusted, skilled and confident workforce. Every day,  
23 people working in social services across Scotland  
24 support millions of people of all ages to improve their  
25 life chances and to get the care and support that they

1 need.

2 "The care review notes that the purpose of the  
3 workforce must be to put caring above anything else."

4 I think we have already spoken about that and some  
5 of the difficulties, potentially, of that.

6 If we scroll to the bottom, please. There is just  
7 a request, really, for feedback there by Lorraine. If  
8 we could go to page 10, please. It is the fourth  
9 paragraph I am particularly interested in. She says:

10 "The care review identifies significant and  
11 immediate challenges for the SSSC. There is a call for  
12 the SSSC and other regulators to work together to drive  
13 a focus on enabling recovery and rethink their  
14 approaches to driving change. The review identifies the  
15 need to significantly declutter and streamline  
16 professional codes, procedures and processes with  
17 a clear focus on enabling relationships -- above  
18 anything else."

19 I think we have already spoken about the challenges  
20 and so on, and we have also seen your proposed revisions  
21 to the codes of practice. Just thinking about that  
22 again briefly, was there any drive, any suggestion, any  
23 thought, that there had to be a radical rethinking of  
24 the codes of practice in the light of this, or was it  
25 thought that relatively minor changes were sufficient?

1 A. We certainly went into reviewing the codes with a really  
2 open mind about whether it should be radical, but the  
3 very strong feedback that we had, not just from the  
4 workforce and employers but also from people who used  
5 services and umbrella groups of people who used services  
6 was that actually the codes in their current form don't  
7 require radical rethink. So we were certainly open to  
8 the possibility.

9 Q. All right. The draft codes that we have seen, that's  
10 what you are going forward with?

11 A. Yes. Yes.

12 Q. Subject to issues that we have discussed in today's  
13 hearing?

14 A. Yes. And obviously that isn't a radical rethink.

15 I suppose one of the other points to make is it  
16 talks here about trying to align and declutter. One of  
17 the other aspects of us reviewing the code of practice  
18 was to look at how it could align better with the Health  
19 and Social Care Standards, which the Care Inspectorate  
20 use to inspect services. So trying to bring clearer  
21 alignment between our codes and the Care Inspectorate's  
22 standards.

23 Q. All right. I think we understand that you do work quite  
24 closely with the Care Inspectorate and indeed you have  
25 a memorandum of understanding with them?

1 A. Yes, and although we publish the code of practice for  
2 employers, it is the Care Inspectorate that have the  
3 statutory responsibility to take it into account when  
4 carrying out their functions, in effect to enforce the  
5 employer's code.

6 Q. Yes, I think that we understand that they monitor  
7 whether the employers are sticking to the code of  
8 practice and ensuring the various aspects of that, such  
9 as safe recruitment and so on?

10 A. Yes, that's right.

11 Q. Thank you.

12 If we can just turn back to the submission, that's  
13 SSC-000000046. That's page 8, I think, the passage that  
14 we were looking at at the foot of that page. Yes, thank  
15 you. You note that the SSSC has a number of duties  
16 under section 58 of the 2014 Act, and we can just  
17 perhaps read those for ourselves.

18 I just want to ask you this, though, sub-paragraphs  
19 A to C, and perhaps F, one might think of as being  
20 obviously part of your remit, "Promoting the interests  
21 of children", "Assessing the needs of children", "Being  
22 alert to matters which might adversely effect the  
23 wellbeing of children" and so on.

24 D and E perhaps less so, "Providing children with  
25 opportunities to participate in activities designed to

1 promote wellbeing" and, "Take action appropriate to help  
2 children and young people to access opportunities and to  
3 make use of services and support which we provide".

4 Maree, you set out passages from the realising  
5 potential document that we have just looked at, you set  
6 those out in the submission. But just in general terms  
7 perhaps you can help us with what the SSSC is doing in  
8 fulfilment of paragraphs D and E there, assisting the  
9 participation of children. It seems in a sense  
10 a slightly awkward duty in the context of what you do.  
11 That's no criticism, it is part of the legislation, but  
12 how does that work in terms of your corporate parenting  
13 duties?

14 A. Yes, I think the duties were definitely designed and  
15 aimed at people who are directly providing services to  
16 children. So it is something we have been conscious of,  
17 that some of these duties don't fit so squarely with our  
18 role as a regulator.

19 I think in D, for example, in seeking to provide  
20 children and young people with opportunities to  
21 participate in activities designed to promote their  
22 wellbeing, we try and look at that more as our role to  
23 try to ensure the workforce are skilled to work with  
24 children and young people in a way that helps their  
25 opportunities. That is one of the strands of it.

1           Also looking at our role around careers. We have  
2           a role in trying to develop career pathways for the  
3           workforce, trying to encourage people into the social  
4           service workforce. I think one of the things we try and  
5           do is think about how to bring care-experienced people  
6           into a career pathway within social services, for  
7           example, if they are interested in that, and what we can  
8           do around promoting things like apprenticeships and the  
9           like that there might be available for them.

10           Yes, so I think actually D and E probably both fit  
11           within that type of part of our role.

12 Q. All right. I am grateful, thank you.

13           Unless there is anything that my Lady wishes to ask  
14           about that, I am moving on now to the final part of your  
15           report, which is fitness to practise.

16 LADY SMITH: That's fine.

17 MR SHELDON: We may have to work out pages numbers again, it  
18           is page 18 on my copy. That, I think, will be around 17  
19           on yours. Yes, it is just before one gets to the  
20           details of the particular cases. If we scroll back up  
21           to the start of the section. Yes, it is a little bit  
22           further yet. Scroll up.

23 LADY SMITH: I think it is page 12.

24 MR SHELDON: I am grateful, my Lady.

25 LADY SMITH: Section H?



1 MR SHELDON: Section H, my Lady, yes.

2 LADY SMITH: Begins "Fitness to practise", that begins on  
3 page 12.

4 MR SHELDON: My pagination is now very out, my Lady, but we  
5 will have to work out why that has happened. At all  
6 events, thank you.

7 Maree, you set out there that -- you have already  
8 given evidence to the Inquiry about the fitness to  
9 practise framework, and you have spoken, I think, about  
10 the Protection of Vulnerable Groups (Scotland) Act and  
11 noted the relationship of the PVG scheme to the question  
12 of registration. I don't think we need to go through  
13 that again, but you very helpfully outline it again in  
14 paragraph 27.

15 I just wanted to ask you in relation to paragraph H  
16 there, this is in relation to Disclosure Scotland, at  
17 sub-paragraph G:

18 "If Disclosure Scotland receive information which  
19 raises a concern about the worker's membership of the  
20 scheme [the PVG scheme], they will advise the worker and  
21 other relevant parties, including the SSSC, that the  
22 worker is under consideration for listing.

23 H:

24 "Disclosure Scotland are only able to provide the  
25 reasons for the consideration for listing in certain

1 circumstances. However, the SSSC is normally already  
2 aware of the reasons, either from the employer or  
3 directly from the worker."

4 I think you may have already given evidence about  
5 that, but I just wanted to ask you again, is there any  
6 suggestion from you, from the SSSC, that this lack of  
7 reasons poses any problem for the system as far as you  
8 are concerned?

9 A. I mean it certainly would be helpful if Disclosure  
10 Scotland were in a position to just be very clear and  
11 open about the reasons, and there are a very small  
12 number of situations, I think, where we have been unable  
13 to find out the reason for consideration for listing,  
14 because the employer -- either there isn't an employer,  
15 or the employer isn't aware, and the worker themselves  
16 is not cooperating and explaining it. In those  
17 circumstances we do have provision under our rules to  
18 take action based on the worker not cooperating with us.  
19 So we do have a way round that challenge. But it  
20 absolutely would be much simpler if Disclosure Scotland  
21 were enabled to just be very clear and open about  
22 whatever information they had received had led them to  
23 put the worker under consideration for listing.

24 Q. So some sort of information sharing/data sharing  
25 I suppose one might say might be helpful in that

1 context?

2 A. Yes, it would. I do appreciate from Disclosure  
3 Scotland's perspective they have limitations within  
4 their legislation, I think, which hinder them.

5 Q. Indeed.

6 I think I know the answer to this, but just in terms  
7 of the situation where the worker is not cooperating,  
8 what are the procedures, what are the ways that you have  
9 to deal with that?

10 A. We can consider the non-cooperation to be misconduct,  
11 and take that allegation forward to a panel, and seek  
12 removal if appropriate.

13 Q. All right. So separately from whatever the reason  
14 was --

15 A. Yes.

16 Q. -- the original reason, it is a ground in itself --

17 A. Yes.

18 Q. -- a failure to cooperate? Thank you.

19 At paragraph 28 you say -- sorry, this is back up.  
20 Yes. There we go. Paragraph 28:

21 "Our most recent data as at 3 July 2023 [this is  
22 pretty up to date] on referral levels for fitness to  
23 practise shows that registrants working in residential  
24 child care comprise 3.6 per cent of the total register."

25 This is actually quite a small group relatively

1 speaking to the overall workforce?

2 A. (Nods).

3 Q. "... comprise 3.6 per cent of the total register and  
4 7.93 per cent [nearly 8 per cent] of the live fitness to  
5 practise case load."

6 A. Mm-hm.

7 Q. On the face of it that seems disproportionate.

8 I suppose it is a relatively small sample, but in  
9 comparison with the percentage of workers on the  
10 register you have a significantly greater percentage of  
11 people who are subject to fitness to practise referrals.  
12 Do you have any data, any information or any evidence as  
13 to why that might be so?

14 A. Yes, we carried out some work earlier this year to look  
15 at if we could understand the data and what was leading  
16 to that. We did put out a bulletin to the sector in  
17 I think it was March highlighting that there is this  
18 over referral position for this part of the register.  
19 Within that we were saying that we think that the reason  
20 for it is the challenging behaviour and complex needs of  
21 the service user group, so of the children that the  
22 workforce are supporting in this register part. I think  
23 if you compare it to, for example, day care of children,  
24 which I think if I am looking correctly is 19.4 per cent  
25 of the register, but only 9.46 per cent of the cases,

1           that reflects that for that service user group, which is  
2           young children, there isn't perhaps the same challenging  
3           behaviour and complex needs across there that leads to  
4           situations arising, that I am sure you will come on to  
5           when we look at the situations where we are taking  
6           action, there are issues around how to deal with  
7           challenging behaviour from service users, the complexity  
8           of managing those situations, for example.

9    Q.   Thank you.

10           Yes, I mean you produced a document, which I don't  
11           think we need to go to today, "The key fitness to  
12           practise statistics", that is SSC-000000071, but I think  
13           you have reproduced a section of it just below  
14           paragraph 28, which I think perhaps illustrates the  
15           point you have made, well, rather literally,  
16           graphically?

17   LADY SMITH:   Yes, it does.

18   MR SHELDON:   Can we perhaps increase the size of that,  
19           please, a little? I think my Lady has it there.

20   LADY SMITH:   I have it, thank you.

21   MR SHELDON:   Yes.

22           We can see that just looking at it, the last pair of  
23           bars for residential child care do look rather out of  
24           proportion in the way that you have described, and that  
25           by contrast day care children's services is quite a high

1 percentage of the workforce but a much lower percentage  
2 of the actual referrals.

3 I think we can all understand that the residential  
4 child care service may pose particular challenges for  
5 workers. I suppose one might say then that it is all  
6 the more reason to have a highly qualified and  
7 experienced workforce?

8 A. Yes.

9 Q. Scrolling down then to paragraph 29. You say you  
10 reviewed all referrals in respect of registered workers  
11 with a recorded employment at the following services.  
12 You then go on to list, really, all the establishments  
13 for which you would have responsibility that may have  
14 been in operation during your period as regulator, is  
15 that right?

16 A. Yes, that's right. I think we put on the right-hand  
17 column where it was a service that we would then have  
18 people registered with us working within that service.

19 Q. Yes.

20 A. So some of them we didn't have anyone.

21 Q. Yes, but I think of these establishments it is only  
22 Kibble, Rossie, St Euphrasia's, Good Shepherd, St Mary's  
23 and St Philip's that are still in operation, given that  
24 St Katharine's has now apparently closed?

25 A. Yes.

1 Q. Howdenhall, St Katharine's.

2 Just scrolling past that table, paragraph 30:

3 "We reviewed fitness to practise referrals as at  
4 9 July 2023 to identify those relating to abuse of  
5 children and young people. That included physical,  
6 sexual and verbal abuse, difficulties with boundaries  
7 and inappropriate restraints."

8 Did you have a feel, an impression, for the overall  
9 balance of where the referrals, or the reasons for the  
10 referrals, were there more physical abuse cases? Were  
11 there more sexual abuse cases? Restraint? Can you give  
12 us a feel for that?

13 A. I reviewed them all myself as well, but, yes, I am not  
14 sure I can say now, I would have to go and review them  
15 again to let you know.

16 Q. It would be helpful to have I think --

17 A. Okay.

18 Q. -- even a fairly general view on that.

19 A. Okay.

20 Q. To see if it is possible to say where the real  
21 difficulties may arise.

22 A. Okay.

23 Q. I think we may all have our suspicions about that, but  
24 I think it would be good to have --

25 LADY SMITH: Maree, I am interested that you provided both

1 boundaries and inappropriate restraint as separate  
2 categories, whereas of course inappropriate restraint  
3 may, may, also be physical abuse. Am I to take it from  
4 that that your starting point is to allow for the  
5 possibility that although the conclusion is that the  
6 restraint was not appropriate, wholly appropriate, in  
7 the circumstances, it wasn't such as to properly be  
8 categorised as abusive?

9 A. Yes, indeed. And sometimes may be not even categorised  
10 as inappropriate, following investigation. The reason  
11 I pulled it out separately is because we are aware that  
12 that is a category of its own that we do see referrals  
13 for, and that we have certainly had a number of cases  
14 before fitness to practise panels where they have  
15 certainly felt that the explanation was such that it was  
16 not physically abusive or inappropriate. I think it is  
17 something that for us shows that there is a real  
18 challenge around restraints in those settings.

19 LADY SMITH: What about boundaries? Tell me about that.

20 A. Yes, I think that's, to our mind, more about that issue  
21 around gift giving, yes, connection outside work, those  
22 types of, yes, comments that would not be of  
23 an appropriate nature, would be more what we would class  
24 as boundaries.

25 LADY SMITH: Thank you, that's very helpful.



1 MR SHELDON: Some of these examples of boundary issues one  
2 might view, I mean for example the giving of gifts, that  
3 might be regarded as a red flag, perhaps?

4 A. Yes, it might be.

5 Q. In paragraph 31 you say that you excluded referrals in  
6 relation to a number of issues, practice issues, such as  
7 medication errors, speeding, how would that arise in  
8 practice, the issue of speeding?

9 A. Because you could be -- well, for our data across the  
10 residential child care workforce you could be speeding  
11 outside work and that could be considered a matter that  
12 we would deal with as a regulator, but you could be  
13 speeding as part of your work, sometimes with service  
14 users in the car.

15 Q. That's what I was getting at, thank you.  
16 That might itself be a ground for referral?

17 A. Yes.

18 Q. You say you also excluded failure to follow procedures.  
19 I am interested in why you did that. I suppose one  
20 might think that failure to follow procedures at least  
21 in certain cases could be a very serious matter for  
22 disciplinary authorities?

23 A. Yes, I suppose we were trying to focus for you on the  
24 ones that we felt fell within your remit, and for us  
25 many of the failures to follow procedures would be

1 things that don't really relate to, necessarily, even to  
2 the children service. It might be more employment  
3 issues about not properly telling your manager when you  
4 are off sick, or something like that. It is a really  
5 broad category for us.

6 Q. Sure, I completely appreciate that. But it would,  
7 I think, be helpful perhaps if there are cases,  
8 particularly if there are significant cases, of failure  
9 to follow procedures relating to safeguarding, for  
10 example, then that is something I think we would be  
11 interested in. Would it be possible to dig down?  
12 I mean not now, clearly, but to dig down to see whether  
13 that may be an issue? It has clearly been an issue in  
14 some enquiries that we have seen in the past, and it  
15 would be interesting to know if it remains so, and if so  
16 to what extent at the present time. Would that be  
17 possible, Maree?

18 A. Yes, yes that would.

19 Q. Thank you.

20 My Lady, I am conscious of the time. I do have some  
21 fitness to practise, particular cases to go to. It  
22 won't take very long, but certainly more than  
23 five minutes.

24 LADY SMITH: It presents itself as a separate chapter,  
25 Mr Sheldon.

1           What I would like to do, if that will work for you,  
2           Maree, is rise now for the lunch break and sit again at  
3           2 o'clock, is that okay?

4   A.   Yes.

5   LADY SMITH:   Very well, thank you.

6   (12.56 pm)

7                               (The luncheon adjournment)

8   (2.00 pm)

9   LADY SMITH:   Good afternoon.

10           Maree, are you ready for us to carry on?

11   A.   Yes, I am.

12   LADY SMITH:   Thank you very much.

13           Mr Sheldon, when you are ready.

14   MR SHELDON:   Thank you, my Lady.

15           Before the break, Maree, we were starting to look at  
16           the fitness to practise section of your submission to  
17           the Inquiry. We had looked briefly at paragraph 31, and  
18           we were then going to go on to look at the fitness to  
19           practise decisions that you have helpfully included in  
20           the report. Looking at paragraph 32, this I am told is  
21           on page 15.

22           Do you have that, my Lady?

23   LADY SMITH:   I have, thank you. Oh, paragraph 32.

24           Yes. Page 15. Yes, well done.

25   MR SHELDON:   It is through no particular merit of my own, my

1 Lady, it was entirely the assistance of the lady and  
2 gentleman behind the desk.

3 You note there, Maree, that you have included three  
4 data sets.

5 The first is decisions by fitness to practise  
6 panels, or indeed I think in some cases by fitness to  
7 practise officers, either to impose sanctions or not.

8 A. Yes.

9 Q. In the original report, I think you included the names  
10 of the workers, because those in fact appear on your  
11 website as decisions --

12 A. Yes.

13 Q. -- in these cases. I think we understand that the  
14 decisions themselves remain on the website and available  
15 to the public for about five years; is that correct?

16 A. Yes, that's right.

17 Q. You have provided us with copies of the formal notice of  
18 decision. You indicate:

19 "Two cases were removed for other reasons under our  
20 rules. There is no formal notice of decision for those  
21 [it should be 'cases']."

22 Maree, can you tell us about other reasons and how  
23 that may arise, where in effect a worker is removed but  
24 not because of the fitness to practise panel decision?

25 A. Yes, so we do have provision in our rules for removal in

1 situations which are not covered under the rules. So  
2 really it is a provision for, if there are very unusual  
3 circumstances. I mean one could be due to ill health or  
4 death of a worker, then you may end up with a situation  
5 that somebody who has been investigated is removed.

6 You could also have a situation where Disclosure  
7 Scotland list the individual and their listing decision  
8 then leads to removal. So there are a number of  
9 situations where you could have a decision being made to  
10 remove, but you wouldn't have a formal notice of  
11 decision and we wouldn't be able to explain the reasons  
12 why we had made the removal on our public website.

13 Q. That's because Disclosure Scotland doesn't make the  
14 reasons available; is that right?

15 A. Yes, if it was a decision due to Disclosure Scotland  
16 having listed, then that is information that we would  
17 have to keep confidential.

18 Q. All right. Of course if Disclosure Scotland does make  
19 a listing decision, then the worker is simply no longer  
20 eligible to be on the register. Is that right?

21 A. Yes, that's right.

22 Q. All right, thank you.

23 The final bullet point in that paragraph:

24 "Decisions were made either by a fitness to practise  
25 panel or by officers with consent of the worker."

1           Can you just tell us a little bit about officers,  
2           Maree, who are they and what's their background and  
3           qualification?

4    A.   We have a mix of investigators and solicitors who work  
5           in the department that would be classed as "officers".  
6           However, any decision to impose a sanction is a decision  
7           that must be made and signed off by a solicitor, who has  
8           assessed the evidence and is satisfied that various  
9           legal tests are met to justify those sanction decisions.

10   Q.   All right, thank you.

11           That's the first data set, the sanctions or decision  
12           not to sanction.

13           You also have a set of referrals which are still  
14           being open and investigated, and you say that you had  
15           redacted those names because that information is not yet  
16           in the public domain?

17   A.   Yes.

18   Q.   Similarly, with the third set, which is referrals in  
19           respect of workers employed by Edinburgh Secure  
20           Services, which were closed by officers. Is that SSSC  
21           officers?

22   A.   Yes.

23   Q.   Without a sanction.

24           Are you in a position to tell us why those were  
25           closed without a sanction?

1 A. There would be a range of reasons. Either that there  
2 was insufficient evidence to substantiate the  
3 allegations, or if there was sufficient evidence, that  
4 the full circumstances surrounding the situation didn't  
5 meet the legal test to merit imposition of a sanction.

6 Q. All right. Before we go on to look at, I think some  
7 examples, not all of the ones you have listed, but some  
8 examples of actual decisions, I suppose the decision to  
9 impose a sanction and which sanction to impose, what  
10 sort of sanction to impose, in very broad terms depends  
11 on the particular circumstances of the case?

12 A. Yes.

13 Q. Can you just give us an idea, in your own words, of the  
14 kind of factors, the kind of considerations, which the  
15 panel or, as the case may be, officers take into  
16 account?

17 A. Yes, we have our document called "The decisions  
18 guidance", which sets out by way of guidance examples of  
19 the types of factors that should be taken into account  
20 when deciding on sanction. So things like whether  
21 a service user has been harmed, how long ago the  
22 incident was, whether there has been any good or bad  
23 practice since, any reflection or insight that the  
24 worker has shown.

25 Q. This is back to the idea of reflective practice,

1 I suppose?

2 A. Yes.

3 Q. Sorry.

4 A. And the nature and severity of the allegations, so if it  
5 has been physical or sexual abuse, for example,  
6 dishonesty, the decisions guidance has examples of types  
7 of behaviour that is considered more serious than  
8 others, as a guide.

9 Yes, that's the type of factors.

10 Q. All right. It may be my fault, Maree, but I am not sure  
11 I have seen a copy of the decisions guidance document.

12 A. Oh. My apologies, I think it is probably referred to in  
13 previous submissions that we have made.

14 Q. All right. My apologies if we actually have it, but if  
15 not, perhaps we can check that and make sure that we can  
16 get a copy if that would be possible. Thank you.

17 A. Yes, will do, thank you.

18 Q. Moving on, if we may, to the sanctions decisions. You  
19 have set out a range of decisions and we see just  
20 looking down the list at the "Outcome" column that there  
21 are removals, warnings, some cases dismissed and so on.  
22 So it is a range of disposals?

23 A. Yes.

24 Q. In the table that you have helpfully provided, you have  
25 sections with dates, the organisation concerned, the



1 provider concerned, a brief summary of the  
2 circumstances, the source of referral, the register, the  
3 outcome and the decision maker.

4 I just want to look at a few examples of this to  
5 give a flavour, if you like, of the decision making  
6 process.

7 The first one I think we can move swiftly past.  
8 This is a case about possession of pornographic images  
9 of children. I should say, Maree, I am not going to use  
10 the names of the individuals. You may have them. We  
11 have redacted them and I think we are not going to  
12 repeat those in this hearing today. But we see that  
13 that is a case about possession of pornographic images  
14 of children, and I think we can immediately see why that  
15 would be a case for removal.

16 A. Yes.

17 Q. We can move on, I think, to the next case. This is  
18 a case from Balnacraig School, and related to a failure  
19 to carry out welfare checks on a young person, enabling  
20 them to abscond. That resulted in a warning. I suppose  
21 the first issue is well, that sounds, actually, a bit  
22 like a practice issue rather than a misconduct issue, or  
23 do the two blur into one another in some cases?

24 A. Yes, I think that is an area where judgment calls are  
25 required to be made. But normally for deficient

1 professional practice you would be expecting there to be  
2 a long pattern of poor practice, and more isolated  
3 incidents like this would tend to fall under misconduct.

4 Q. Yes, perhaps we can just look briefly at the decision in  
5 that case. It is SSC-000000024, please.

6 We see from the title page the name is blanked out.  
7 The sanction is a warning. The date the notice comes  
8 into effect is March 2021. Looking down, do we see  
9 first of all a section for the decision and this is  
10 a decision of an officer, I think we understand, is that  
11 right?

12 A. Yes. Yes, that's right.

13 Q. The decision is that the facts found are fitness to  
14 practice is impaired as defined, and further, second, to  
15 place a warning on your registration, that is to be on  
16 the register for 24 months?

17 A. Yes.

18 Q. Would that be at pretty much the lower end of the  
19 possible sanctions available, or are there lower  
20 sanctions as it were still?

21 A. No, a warning would be the lowest sanction, and warnings  
22 can be imposed for the length of time of up to  
23 five years. Yes, this would be at the lower end of the  
24 spectrum of sanctions.

25 Q. All right. What are the consequences of having

1 a warning on one's record?

2 A. It doesn't prevent you from practising, but it is  
3 information that is available to employers who are  
4 interested in recruiting. An existing employer or if  
5 this person moved to a different employer, that employer  
6 would be entitled to that information.

7 At present our public register does not show whether  
8 somebody has a warning or a condition. We do hold the  
9 information on the other part of our website where we  
10 publish these notices, but if you were to go and look up  
11 this individual's name on our public register you would  
12 not see that warning there, but we are looking to have  
13 that legislation changed so that it is really explicitly  
14 clear on our public register.

15 Q. Yes, I was just going to ask you that. So how would  
16 a prospective employer get to know about the presence of  
17 a warning?

18 A. Employers have online access to certain aspects of the  
19 registration system, so if they are looking to employ  
20 an individual they can look and see if there are any  
21 fitness to practise warnings or conditions through that  
22 process.

23 Q. Thank you. Would it then be a matter for that employer,  
24 that prospective employer I suppose, to decide what to  
25 make of the warning? In other words, they could, could

1       they, decide that in the light of interviews, other  
2       information, whatever, that they could go on to employ  
3       the worker nonetheless, is that fair?

4     A. Yes, that's right.

5     Q. Right.

6             If we go on, then, to the findings in fact. The  
7       officer decided there was evidence that on a particular  
8       occasion at this particular establishment during the  
9       course of the worker's employment they failed to check  
10      on a particular young person at different times, falsely  
11      recorded in a logbook that she went to her room and was  
12      asleep, and indeed that she was settled in her room.

13            Over the page, please.

14            And that as a result these actions meant that this  
15      young person went missing from the particular school and  
16      that was the basis of the fitness to practise.

17     A. Yes.

18     Q. On the face of it, it seems quite a serious failure and  
19      compounded by incorrectly, to put it charitably,  
20      recording the particular checks that were otherwise  
21      required. Would you accept that this on the face of it  
22      is quite a serious matter?

23     A. Yes, absolutely.

24     Q. If we then go on to look at the reasons for the finding,  
25      there is a bit more detail about why the officer thought

1           that fitness to practise was impaired. Social service  
2           workers must protect vulnerable people from harm and the  
3           risk of harm. Failed to carry out checks which you were  
4           required to do, and that resulted in this worker being  
5           unaware that the young person had absconded. The worker  
6           should have checked between particular hours. It is  
7           noted that these are the hours when this young person  
8           felt, or feels, most vulnerable. So there is a clear  
9           aggravation, if you like, in terms of the young person's  
10          particular circumstances and vulnerabilities?

11        A. Yes.

12        Q. It is then noticed that this young vulnerable person had  
13          gone missing.

14                The next bullet point:

15                "Failed to maintain clear, accurate and up-to-date  
16          records."

17                And it would have been realised if the records were  
18          complete that the young person was missing.

19                Scrolling down, please.

20        LADY SMITH: Also I see on that bullet point:

21                "You completed the daily log and shift review in  
22          advance."

23        A. Yes.

24        LADY SMITH: "Recording inaccurate information."

25                That's a very serious matter, isn't it?

1 A. Yes, it is.

2 LADY SMITH: Mr Sheldon.

3 MR SHELDON: Thank you, my Lady.

4 I think that's really the point I am making, my  
5 Lady, that at least on the face of it this is a serious  
6 matter. Although in that bullet point it is described  
7 as "inaccurate", I think the clear implication, and it  
8 is taken over to the decision earlier, that this was  
9 a false record of the checks that were made.

10 The next bullet point:

11 "You were experienced ... you ought to have known  
12 the standards of care expected, the actions were  
13 intentional, there is no reason for you not carrying out  
14 the checks expected."

15 Next bullet point:

16 "There is a public interest in maintaining trust and  
17 your behaviour damages the reputation of the profession  
18 and needs to be marked as unacceptable."

19 LADY SMITH: On that penultimate bullet point, it wasn't  
20 just a matter of failing to complete the documents with  
21 correct information, more importantly it was a matter of  
22 completing the document with information you knew was  
23 false. Isn't that right?

24 A. Yes, I think that is right, my Lady.

25 MR SHELDON: Paragraph 2:

1            "In relation to findings of fact 1 to 6 you have  
2            failed to follow [specified parts] of the ... code of  
3            practice."

4            I don't think we need to look at those, but I think  
5            we can take those as read. For the record, my Lady, the  
6            code of practice is SSC-000000006.

7    LADY SMITH: Thank you.

8    MR SHELDON: If we can then go over to the next page,  
9            please. So that's the sanction. So we have had  
10           decision, reasons and sanction. Is this following  
11           a fairly set pattern, Maree, is this generally --

12    A. Yes.

13    Q. -- the form that decisions take?

14    A. Yes, it is.

15    Q. Thank you. The officer then explains that it was  
16           decided that the appropriate sanction was a warning for  
17           24 months, and they considered the following factors.  
18           They say:

19           "Your behaviour was a serious example of failing to  
20           provide an acceptable level of care ... your behaviour  
21           was intentional in that you chose not to check on ...  
22           and fill in the paperwork ... to complete the paperwork  
23           accurately."

24           Again, that may understate it, perhaps, that there  
25           seems to have been a deliberate falsification of the

1 record, is that a fair way of viewing it?

2 A. Yes, I think it is.

3 Q. This was a vulnerable person. We then go on to look at  
4 factors in this worker's favour, and it is said:

5 "In was an isolated incident in an otherwise  
6 unblemished career."

7 Scrolling down, it says:

8 "This person has shown insight and resource. No  
9 previous history with the SSSC."

10 And there was cooperation.

11 So those were considered sufficient to mitigate the  
12 sanction that was imposed; is that fair?

13 A. Yes, that's fair.

14 Q. There's an example, I think, of the decision making  
15 process and again is that typical of the way that it is  
16 done, whether we may agree with the decision taken in  
17 this case or otherwise, that is how the process works,  
18 is it?

19 A. Yes, that's right. I am sure you will come on to when  
20 there is a case that goes to the panel, the decision  
21 will contain a lot more detail in it, because the  
22 testing of the evidence leads to there being a lot more  
23 detailed reasons having to be given.

24 In a case like this where it is an officer sanction,  
25 it has been based on the worker accepting the facts of



1 the case.

2 Q. I think we can just do that, then, and move on to --

3 LADY SMITH: Just before we leave this one, I see that the  
4 record right at the bottom on acceptance of the warning  
5 records that the person admitted that their fitness to  
6 practise is impaired. So if you find somebody's fitness  
7 to practise is at the time they are being sanctioned in  
8 the fitness to practise proceedings impaired, what  
9 happens then?

10 A. In order for there to be a sanction imposed, fitness to  
11 practise requires to be impaired. The intention of the  
12 sanction is that in effect cures the impairment. So in  
13 this scenario we would say that this person, that  
14 imposition of the warning then in effect has cured,  
15 I suppose, the impairment and the individual is then fit  
16 to continue working.

17 LADY SMITH: Do you get my point, to somebody who doesn't  
18 deal with this on a daily basis --

19 A. Yes, absolutely.

20 LADY SMITH: -- it does sound as though there is a flaw that  
21 puts vulnerable people, including children, at risk.  
22 That at the moment that person walks away from the whole  
23 proceedings is still present, because the fact that they  
24 have accepted a warning actually can't cure the problem  
25 itself, can it?

1 A. The alternative, of course, is that in effect all  
2 sanctions are suspensions or removals, and there is no,  
3 I suppose, more middle ground to deal with situations  
4 where you have, as in this case, what can be a serious  
5 incident, but the mitigation is such in terms of ... and  
6 I would expect in this case the insight and resource  
7 would be the main factor that would have led to  
8 consideration that suspension or removal was not  
9 appropriate.

10 Yes, in the absence of having conditions or warnings  
11 the only sanction available is a suspension or removal.

12 LADY SMITH: I suppose my point is really a short one. That  
13 it might make more sense, particularly to the  
14 uninitiated, if it said, "You admitted your fitness to  
15 practise was impaired".

16 A. Okay.

17 LADY SMITH: And this is what's happened. But are you  
18 telling me from what you say that this is under the  
19 rules, is it, or under the primary legislation, you have  
20 to find that somebody is impaired before you can  
21 sanction them?

22 A. Yes, it is under the rules. At the point that they are  
23 accepting the facts, they are accepting their fitness to  
24 practise is impaired and they are accepting that  
25 a warning is the appropriate sanction to address that

1           impairment.

2   LADY SMITH: The person is pushed into accepting that to be  
3           able to walk out with a warning and their job intact,  
4           but actually it was history, it is something that  
5           happened in the past, and what they are really accepting  
6           is, "At that time my fitness to practise was impaired".

7   A. Yes.

8   LADY SMITH: Something like that?

9   A. Obviously we would not suggest that people were pushed  
10          into accepting, they are absolutely given the  
11          opportunity for a panel hearing.

12   LADY SMITH: Sorry, I am not suggesting that at all, Maree,  
13          I am just trying to look at it through the lens of the  
14          practitioner.

15   A. Yes, of course.

16   LADY SMITH: It is maybe just a language problem, but it  
17          does strike me as having a difficulty inherent in it.

18                Mr Sheldon.

19   MR SHELDON: If we can move on, then, to look, perhaps, at  
20          another example by way of contrast, possibly. It is  
21          a case where there was a removal. This is the fifth  
22          example on the table there.

23                You will see from the summary that it was a case  
24          involving what is described there as abusive language  
25          towards a young person. They were referred by the

1 employer. This was an Edinburgh Secure Services case.  
2 Again, it is a decision of an officer, and the decision  
3 is to remove.

4 If we could look, please, at that decision, the  
5 sanctions decision, it is SSC-000000028.

6 Again, Maree, I think we see the familiar layout.

7 A. Yes.

8 Q. We have the decision there. The sanction is removal.  
9 The date of effect is December 2014. Scrolling down to  
10 see the decision, the counsel decided that the  
11 registrant had committed misconduct under the rules and  
12 to make a removal order.

13 The charge was:

14 "In January 2013, while employed as a residential  
15 care worker at St Katharine's, this worker pushed his  
16 weight against a door at St Katharine's Centre to  
17 prevent his colleague from leaving a corridor whilst she  
18 was being soaked with water guns by service users, and  
19 in doing so caused his colleague to feel humiliated and  
20 put her at risk of harm."

21 Scrolling down to the next page, I think on  
22 a separate occasion, this individual used inappropriate  
23 language, and we can see that set out there that he  
24 called this service user a "wee dirty" and various other  
25 clearly, I think, inappropriate expressions and

1           epithets.

2           Scrolling down again to the reasons, the Council  
3           decided that there was misconduct because:

4           "Social service workers have the right to expect ...  
5           to be treated with dignity ... by preventing his  
6           colleague from leaving a corridor while she was being  
7           soaked with water guns ... the registrant failed to  
8           treat his colleague with dignity ... and had  
9           unacceptable disregard for his colleague's safety."

10          Do we understand that this was a kind of attack,  
11          perhaps not a terribly serious attack on the colleague  
12          which this particular individual, the registrant, under  
13          sanction, as it were, conspired with?

14        A. Yes.

15        Q. Next bullet point, he fails to model appropriate  
16          behaviours to service users.

17          Again, next bullet point:

18          "Service users have the right to expect that they  
19          will be treated with dignity ..."

20          And so on:

21          "The registrant's behaviour was likely to cause  
22          distress to the young person and to erode the young  
23          person's self esteem."

24          Next bullet point:

25          "The behaviour constituted communication that was

1 entirely inappropriate for a social services worker, who  
2 has a responsibility for role modelling acceptable  
3 behaviour to young people in his care."

4 Over the page, please. Again, there the sanction is  
5 removal. Again we have, I think, the factors of concern  
6 and the factor mitigating.

7 As matters of concern, there is more than one  
8 incident. It is noted that the incident with the water  
9 gun seems to have been planned, that it does seem to  
10 have been a conspiracy, if that's the right word.  
11 Perhaps importantly, the registrant is already subject  
12 to a three-year warning, imposed in April 2012. His  
13 colleague was --

14 LADY SMITH: That was just about a year earlier?

15 MR SHELDON: Yes. I think we understand actually from  
16 this --

17 LADY SMITH: From the referral date, is that right?

18 MR SHELDON: Yes, my Lady, I think that's right.

19 LADY SMITH: Three-year warning from April 2012.

20 A. Yes.

21 MR SHELDON: Yes.

22 LADY SMITH: And the referral date of March 2013.

23 A. Yes.

24 MR SHELDON: So he is already on a warning and this happens.

25 So it is noted that the risk of emotional harm,

1       there is an abuse of trust, serious disregard for the  
2       code of practice. Scrolling down again, please, it is  
3       noted:

4               "The registrant's behaviour suggests he failed to  
5       recognise appropriate and professional boundaries with  
6       service users and colleagues ... it is fundamentally  
7       incompatible [behaviour] with continuing to be a social  
8       service worker."

9               In view of that it is perhaps redundant to go on to  
10       look at the mitigating factors, but nonetheless it is  
11       noted that the registrant has cooperated.

12              Scrolling down. It is said that the warning is not  
13       sufficient, as it would not adequately address the  
14       misconduct. The misconduct is extremely serious and  
15       a warning would not offer adequate protection to the  
16       service users or the members of the public. A condition  
17       would be inappropriate, because there are no conditions  
18       which could be imposed on the registrant which would  
19       address the nature of the misconduct. The type of  
20       behaviour at issue is not the type of behaviour which  
21       conditions would rectify.

22              Perhaps I can ask you a little bit about that.  
23       What -- I am perhaps inevitably asking you to put  
24       yourself in the mind of the officer -- is being  
25       contemplated there? What type of behaviour is behaviour

1           which conditions might rectify or could rectify?

2   A.  If it is something, I suppose, where there might be  
3       a procedural or training type issue that you could  
4       impose a condition that somebody should go and do  
5       training or learning.  But this is also where I suppose  
6       the reflective account part comes into play that we  
7       discussed earlier, where you could have situations where  
8       you believe a reflective account, if it existed, would  
9       give you that reassurance that the behaviour wouldn't be  
10      repeated.  There was obviously consideration here that  
11      that wouldn't be sufficient to address the allegations.

12  Q.  I suppose at least in part because clearly the behaviour  
13      had been repeated, and a warning given on a previous  
14      occasion?

15  A.  Although that -- I did check, that previous warning was  
16      for completely unrelated behaviour --

17  Q.  Oh, right.

18  A.  -- to what was --

19  Q.  Can you give us an indication of what the previous  
20      behaviour was?

21  A.  It related to what I would class more as an employment  
22      matter, it had nothing to do with service users.

23  Q.  All right, you needn't go into that.

24           There is a contrasting decision where there was  
25      removal.  I just want to go on to look at a panel case,



1 if I may. You mentioned that these can be perhaps more  
2 complex cases. The case we have just dealt with was  
3 number 5 on your table.

4 There is then a case of a removal for other reasons,  
5 and you have explained that.

6 Then a case, again, removal by an officer.

7 Another removal for other reasons case.

8 Then we come to a case which is a panel case. The  
9 summary is physical and verbal abuse of young people.  
10 It is from Kibble Education & Care Centre. The decision  
11 of the panel was a warning. I suppose when one sees the  
12 bare description, physical and verbal abuse of young  
13 people, it is initially surprising, perhaps, that there  
14 might simply have been a warning, rather than removal.  
15 But perhaps we can go on to look at that panel decision.  
16 It is SSC-000000036, please.

17 There is some preamble there, which I don't think we  
18 particularly need to concern ourselves with in this  
19 context. There is a reference to the decision to warn  
20 the registrant and direct that a record was to be placed  
21 on the registrant's entry. There is a note there of the  
22 regulatory background to the decision, the 2001 Act and  
23 so on.

24 Then the charge is noted, and it is clear that this  
25 is a serious charge, that the worker:

1 "Repeatedly hit a service user aged 14 on the face."

2 There was verbal abuse:

3 "... with particular reference to a previous  
4 incident which had occurred between [the registrant] and  
5 the service user in ... 2011."

6 And a charge of attempting to influence the  
7 reporting of the restraint, essentially to interfere  
8 with the investigation, as it were, is that fair?

9 A. Yes.

10 Q. Over the page, please. There is a decision on certain  
11 hearsay evidence. The panel decided that certain  
12 hearsay was admissible, subject to relevance and  
13 fairness. So there is an issue about that. There was,  
14 it seems, I think, from the next paragraph there was  
15 an issue with securing the attendance of the service  
16 user --

17 A. Yes.

18 Q. -- and the question of whether hearsay should be used  
19 then arose.

20 In paragraph 3 the committee accepted that although  
21 there would be some prejudice to the registrant,  
22 nevertheless it was fair that it should be admitted.

23 Scroll to the bottom, please. There are findings in  
24 fact. So do we understand, then, that there was,  
25 clearly was a hearing --

1 A. Yes.

2 Q. -- of evidence in this matter, and as a result of that  
3 the sub committee found in fact firstly that the  
4 registrant was registered. Over the page. Details  
5 about their employment. There is a note about the  
6 service user, who was a resident in a particular unit.  
7 Who was vulnerable, because diagnosed with global  
8 developmental delay and some educational issues. It is  
9 noted that this service user had demonstrated violence  
10 and aggressive behaviour towards staff on numerous  
11 occasions, and made allegations against a number of  
12 staff members, including an allegation against the  
13 registrant, which was not upheld.

14 The registrant was the night service manager on  
15 a night shift in 2011. At that time, I think, certain  
16 colleagues were working in the Sky unit at Kibble.  
17 I think that the service user had been on leave. He had  
18 become involved in a fight. He returned under the  
19 influence of alcohol and had injuries from the fight.  
20 Evidence to suggest likely that he may also have been  
21 under the influence of drugs.

22 There is then an incident in the living room area of  
23 the unit and it is said that the registrant was called  
24 to assist, and at that point the service user became  
25 verbally aggressive towards the registrant. There were

1 further staff called. The service user refuses to go to  
2 bed and becomes physically and verbally aggressive. As  
3 a result he is placed in a restraint known as a supine  
4 torso assist. So he is on the floor, facing upwards and  
5 I think there is a description, although it is heavily  
6 redacted, of the positions that staff members took up in  
7 dealing with that restraint.

8 There is then further aggressive, or certainly  
9 verbal abuse, rather, by the service user and the  
10 service user uses some insulting language. Over the  
11 page, please.

12 It is noted his tone and manner is aggressive. But  
13 the panel find that there is insufficient evidence to  
14 establish on the balance of probabilities that the  
15 registrant had also hit the service user during the  
16 restraint. It seems that rather than, as it were,  
17 interfering with the investigation, it is found that the  
18 registrant encouraged members of staff involved to  
19 ensure that they completed the usual reporting  
20 documentation.

21 It seems rather the opposite, that the registrant  
22 was trying to keep a proper record here of what had  
23 happened, is that fair?

24 A. Yes.

25 Q. There is then some material about a later incident or

1 exchange. It is agreed that the registrant's behaviour  
2 would be discussed at her next supervision. She is  
3 suspended, scrolling down. There was, it seems,  
4 a criminal investigation but the prosecution was  
5 deserted, and no criminal proceedings were pending.

6 Scrolling down, there is then, I think, a more  
7 detailed review of the evidence of what was found to be  
8 credible and reliable. I think we needn't go into all  
9 of that at this stage, but just scrolling through, next  
10 page, please, and I think probably the next page. Go  
11 back up to paragraph 20:

12 "The sub committee also heard evidence from the  
13 registrant ... she presented her evidence in  
14 a straightforward and truthful matter. It considered  
15 that she was both reliable and credible."

16 In addition there was other evidence that was found  
17 to be reliable, which I think we can conclude was  
18 supportive.

19 We then scroll down to look at the question of  
20 misconduct. It seems that there was a finding of  
21 misconduct on the basis of verbal abuse alone, and in  
22 terms of sanctions the sub committee notes that the  
23 misconduct was towards the lower end of the scale. Over  
24 the page please. They didn't consider that it would be  
25 a risk to the protection of the public if the registrant

1 were to return to registrable employment. It is said  
2 there is little likelihood of similar misconduct being  
3 repeated. There were a few aggravating factors.

4 It is clear that the misconduct could have had  
5 an impact on the service user, but there were  
6 considerable mitigating factors. In all the  
7 circumstances the aggravating factors did not escalate  
8 the level of seriousness to a level which would merit  
9 a more severe sanction. There was cooperation. The  
10 registrant had admitted facts found from an early stage  
11 and shown sufficient insight. She had shown timeous and  
12 genuine expressions of regret and no previous adverse  
13 history.

14 Scrolling down, please. The misconduct was a single  
15 isolated incident and the registrant had learned from  
16 it, conceded little likelihood of repetition and it was  
17 considered that a warning for a period of three months  
18 would be appropriate and proportionate. Again,  
19 a sanction very much at the lower end of the scale in  
20 that regard, is that right?

21 A. Yes, that's right. I should probably point out that  
22 this decision took place before we moved to a fitness to  
23 practise model. We moved to the fitness to practise  
24 model in 2016. So decisions that predate that won't  
25 reference fitness to practise as a concept.

1 Q. All right, thank you.

2           Would it be fair to say that also this decision  
3 illustrates rather well the kind of difficulties and  
4 complexities of this type of investigation, and this  
5 type of hearing?

6 A. Yes, absolutely.

7 Q. This is clearly a challenging service user, with  
8 vulnerabilities and their management clearly does  
9 present some issues. Are these the kind of issues, the  
10 kind of issues that arise from this incident of --  
11 really this is of restraint more than anything else, is  
12 that reasonably typical of the kind of issues which  
13 fitness to practise panels now face?

14 A. Yes. Yes, it is, and I think, I know in this case there  
15 are some comments around the credibility and reliability  
16 of witnesses. I would say that it is quite normal for  
17 there to be no issues about credibility and reliability  
18 of witnesses, and that everyone understands the  
19 situation to have unfolded in the same way, but still  
20 there will be really difficult judgments that panels  
21 have to make about whether or not the actions the worker  
22 took were appropriate, given the challenging situation  
23 that everyone involved was dealing with.

24 Q. Yes, perhaps we can just look briefly at one final case.

25           That one was number 3 on that page, I think. If we

1 go to 8, so the final box on that page, this is  
2 an incident arising at Rossie.

3 LADY SMITH: Sorry, just before we leave that previous one,  
4 I meant to ask you this before, Maree. I noticed that  
5 the referral was September 2011. That was the date.  
6 But the date of the decision, the outcome, seems to be  
7 March 2015. Is that right? Some time later.

8 A. Yes.

9 LADY SMITH: Three and a half years later. On the examples  
10 we have here, that looks like quite an unusually long  
11 lapse of time; is that right?

12 A. Yes, it is. There could be two reasons for that.

13 One is that it may be the employer investigation  
14 process took quite a while, because we normally await  
15 the outcome of them.

16 But also during that time the fitness to practise  
17 department was experiencing incredibly high numbers of  
18 referrals, and undoubtedly there were delays and cases  
19 took longer than they do now.

20 LADY SMITH: Right.

21 A. So it could have been one or both of those factors.

22 I am not sure it is mentioned in the decision. I don't  
23 think it is.

24 LADY SMITH: I suppose it gives the registrant longer to  
25 demonstrate good practice.



1 A. That can be one of the consequences, yes.

2 LADY SMITH: Thank you.

3 MR SHELDON: Thank you, my Lady.

4 Just moving on to this, I think a final case for  
5 today, this is another case of inappropriate restraint,  
6 but involving removal on this occasion, another panel  
7 case. It is SSC-000000038, please.

8 Again we have the preamble that we saw in the  
9 previous case. If we can scroll down for the charge.  
10 The charge was that this registrant, this worker, used  
11 abusive and derogatory language, both to a service user  
12 and colleagues while referring to the service user.

13 I beg your pardon, I think I may have the wrong  
14 case. If you will bear with me just for a second.

15 (Pause)

16 Sorry, is this SSC-000000038? It is, all right,  
17 thank you.

18 A. I don't think that's the last one on that page. What  
19 I am looking at in terms of a charge doesn't accord with  
20 my papers, if you are asking me to look at the last one  
21 on that page.

22 Q. Yes, I am struggling to get the reference for that,  
23 Maree, in our numbering.

24 LADY SMITH: Is this the Rossie one?

25 MR SHELDON: This is one of the Rossie ones, my Lady, yes.

1 LADY SMITH: The Rossie one, of course there are four in  
2 a line. Is it the fourth of the ones in the table.  
3 A. Yes.  
4 LADY SMITH: Right at the bottom?  
5 MR SHELDON: There are two, my Lady, and that is the  
6 difficulty. One was a warning, or conditions, rather,  
7 and then there was a subsequent incident, and that is  
8 the one which resulted in --  
9 LADY SMITH: Resulted in a removal.  
10 MR SHELDON: -- removal.  
11 LADY SMITH: What's on the table here is just the removal,  
12 is that right, the table on page 18?  
13 MR SHELDON: The table on page 18 I think has both cases, my  
14 Lady. It is five down on that table, abusive language,  
15 breach of boundaries.  
16 LADY SMITH: Oh right, I see. Yes, I see. Same person.  
17 MR SHELDON: And then the last one, which is inappropriate  
18 restraint. It was the inappropriate restraint which --  
19 LADY SMITH: That's the one.  
20 MR SHELDON: -- led to the removal.  
21 LADY SMITH: The first one, language and breach of  
22 boundaries, referred in February 2011, decided in  
23 July 2012.  
24 Then the second one referred April 2014, that's the  
25 inappropriate restraint.

1 MR SHELDON: Yes.

2 LADY SMITH: With a decision in September 2016.

3 MR SHELDON: Mm-hm.

4 If my Lady would just bear with me for one moment.

5 LADY SMITH: Certainly.

6 MR SHELDON: Yes, Maree, my apologies, and to my Lady, it is  
7 SSC-000000031 that is perhaps the critical one.

8 This is the instance where there was a removal  
9 order, and the charge again we can see is a serious one.  
10 There is a charge of pushing the service user,  
11 attempting to kick, grab by the arms, wrapping arms  
12 around the service user's neck, and pulling the service  
13 user to the ground, resulting in what is described as  
14 an uncontrolled descent to the floor. Struggle with  
15 service user until the colleagues arrived. Compressed  
16 the service user's chest and that was contrary to any  
17 technique compatible with the crisis, aggression,  
18 limitation and management (CALM) training, so placed the  
19 service user at risk and in doing so failed to meet  
20 relevant standards of practice.

21 Scroll down. There is a note that this registrant  
22 had been suspended, charged by the police and failed to  
23 inform SSSC of those facts. There is then a review of  
24 certain preliminary issues. But if we can scroll down,  
25 please. And over the page to the decision.

1           It is noted that the registrant had committed  
2           misconduct and the decision was to make a removal order.  
3           There are findings of fact about this individual's  
4           employment, and so on, and in substance the charge is  
5           I think accepted. So there was a risk to the service  
6           user, there was failure to comply with training and  
7           techniques and indeed that training had been received  
8           relatively recently before the incident took place.

9           Over the page, please. To the reasons for finding  
10          misconduct. The charge involving the physical aspects  
11          of the incident were contrary to training, wholly  
12          inappropriate, unacceptable behaviour, placing the  
13          service user at risk of harm and there is more detail  
14          about that.

15          Scrolling down, please. Then there is a reference  
16          to the charge about failing to inform, which also  
17          amounted to misconduct. Again we have a reference to  
18          the parts of the code of practice that were breached in  
19          this instance.

20   LADY SMITH: Sorry, can we just go back up to the failure to  
21          inform, to get the full text about that. Start at the  
22          foot of the previous page:

23                 "Failure to inform the Council as soon as reasonably  
24          practicable about the suspension and charge."

25                 Thank you.

1 MR SHELDON: Thank you, my Lady.

2 Over the page again. We go down to the reasons for  
3 the sanction.

4 Factors of concern, first bullet point, potential  
5 for serious harm, grossly reckless act in disregard of  
6 the service user's safety, lack of regret and lack of  
7 insight, not shown resource, and it is concluded there  
8 is a serious risk of repetition. This is a vulnerable  
9 service user and there was an abuse of trust.

10 Skipping a bullet point. This was a serious  
11 disregard for the Council's code. And significantly,  
12 and this is where we came in, my Lady, that there is  
13 a previous finding of misconduct, which demonstrated  
14 a number of failures, calling into question this  
15 individual's suitability to work.

16 Factors in favour:

17 "No evidence of premeditation."

18 There was cooperation, although it is said that  
19 that's limited cooperation, and there is a recognition  
20 that this is a challenging environment.

21 But the ability to identify mitigating factors was  
22 limited as a result of the registrant's failure to  
23 attend the hearing. So this is someone who is clearly  
24 not cooperating with the process, really, is that right?

25 A. Yes, that's right.

1 Q. And the balance, I think fairly clearly, falls in  
2 failure of removal in that instance?

3 A. Yes, yes, it did.

4 Q. By contrast with the previous example of restraint that  
5 we looked at, this appears to be an incident that was  
6 just out of control, in a sense. It is an untrained  
7 reaction to challenging behaviour, perhaps. Whereas in  
8 the previous incident things seemed to have been done  
9 correctly, albeit that there was a difficulty in the  
10 course of that correct restraint. Is that fair to say?

11 A. Yes, I think that's a fair summary, yes.

12 Q. All right, I am obliged.

13 A. Also I suppose to point out that the previous misconduct  
14 in this case is, whilst not relating to a restraint, it  
15 is about behaviour towards service users and showing  
16 a really kind of derogatory approach to that.

17 Q. Yes. And indeed failing to cooperate with  
18 an investigation?

19 A. Yes.

20 Q. A quite proper investigation, clearly.

21 If we can go back, then, please to your submission,  
22 that's SSC-000000046. This will be, I think, page 18 by  
23 now.

24 LADY SMITH: We were just looking at page 18 before.

25 MR SHELDON: Yes, so down to the next one, please.

1 LADY SMITH: That will be page 19, is it?  
2 MR SHELDON: Yes.  
3 LADY SMITH: For another, it starts with another Rossie  
4 case?  
5 MR SHELDON: Yes. I was going to move on, my Lady, from  
6 these examples --  
7 LADY SMITH: Certainly.  
8 MR SHELDON: -- and look at the other categories.  
9 Scrolling down again to the next page, please.  
10 LADY SMITH: You will need page 20, I think, for that, will  
11 you?  
12 MR SHELDON: Thank you, my Lady.  
13 LADY SMITH: For category 2.  
14 MR SHELDON: This is category 2 cases. Referrals still  
15 open.  
16 We can see there that there is a range of  
17 establishments. Scrolling down the list of  
18 organisations --  
19 LADY SMITH: Actually, Mr Sheldon, just seeing the time,  
20 I think so as to give the stenographers a breather, if  
21 it works for you, Maree, I will take the short break  
22 now.  
23 MR SHELDON: Of course, but I am very nearly finished, my  
24 Lady.  
25 LADY SMITH: I see that, but let's just have a quick

1           breather anyway.

2           (3.06 pm)

3   (A short break)

4           (3.15 pm)

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

6   A. Yes, thank you.

7   LADY SMITH: Thank you.

8           Mr Sheldon.

9   MR SHELDON: Thank you, my Lady.

10           Maree, we have been looking at some examples of  
11           decisions, sanction decisions. I had asked you before  
12           that about officers who make some of the decisions and  
13           who they were. I should have asked you at the time  
14           about panels. Who are the panels? What is the  
15           discussion? Who is on them?

16   A. So since 2017 we have a legally qualified chair, a lay  
17           member and a social service member. So somebody who has  
18           a background from the particular register part that the  
19           worker is registered on. The lay members are just  
20           recruited from general background. The legally  
21           qualified chairs are obviously solicitors and advocates  
22           in practice.

23           Prior to 2017 we had a different make up, where  
24           there was a lay chair, a lay member, a social service  
25           member and then, separately, there was a legal adviser



1       who would provide legal advice to the panel, but not be  
2       part of decision making. So in the decisions you have  
3       before you see a range of those different constitutions  
4       and the decisions reflect slightly different styles due  
5       to that.

6   Q. All right. Should we have the impression, then, that  
7       the move to this particular format of panel has produced  
8       more consistency of decision making, or at least of the  
9       format of decision making?

10  A. Yes, and also I think probably faster decision making,  
11       because the legally qualified chair has certain skills.

12  Q. It doesn't always necessarily follow, Maree.

13               Who presents the case before the panel?

14  A. It is normally one of our solicitors, but sometimes it  
15       is an external solicitor if we do instruct externally.

16  Q. All right, thank you.

17               We were looking at the last part of your report, and  
18       we were moving on to the category of referrals which are  
19       still open and being investigated. You have listed,  
20       I think, 17 examples there. Just looking down the list  
21       of organisations involved, I think I am right in saying  
22       that these are all establishments/organisations that  
23       provide secure care, is that right?

24  A. Yes, that's right.

25  Q. I suppose we can perhaps speculate that that is one

1 reason why we have this disproportionate number of  
2 referrals in this sector of residential child care,  
3 because of the kind of challenging behaviours that we  
4 have seen in some of the panel decisions?

5 A. Yes, I think that is right and I think is what our data  
6 is showing, yes.

7 Q. Thank you.

8 You don't have any reason to think that there is  
9 a difficulty with the workforce?

10 A. No, nothing that we are aware of.

11 Q. All right. On the face of it, it seems to be the work  
12 rather than the workforce?

13 A. Yes, that's right.

14 Q. All right. Is that something that you keep under  
15 review?

16 A. Yes, we are trying to get better at examining our data  
17 and understanding the reasons behind things like there  
18 being a higher number of referrals in this area.

19 Q. Thank you very much.

20 Again just looking down the list of case  
21 descriptions, we have allegations of sexual assault,  
22 an allegation of failing to report, self-injuring  
23 behaviour, self-harming behaviour, an allegation of  
24 abuse and assault, verbal abuse and assault, again  
25 assault, inappropriate touching, an allegation of

1 supplying a young person with illegal substances,  
2 inappropriate restraint, assault, restraint, assault.

3 Moving over, that next one, alleged bullying,  
4 assault, unauthorised contact with a former resident,  
5 allegations of inappropriate possibly sexualised  
6 behaviour, and an incident of a worker being charged by  
7 police with a serious sexual offence.

8 It is quite a range of possible issues there?

9 A. Yes, and I think many of these are currently either with  
10 the police or with the Fiscals.

11 Q. I was just about to ask you that. The nature of the  
12 allegations, many of them anyway, are such that one  
13 would expect that?

14 A. Yes, that's right.

15 Q. All right.

16 Again, and I think you have given evidence about  
17 this before, that almost all the referrals, certainly  
18 the bulk of them, are from employers?

19 A. Yes, that's right. I think, well, employers do have  
20 a statutory responsibility to make referrals to us in  
21 particular circumstances, and it is an area that I think  
22 the Care Inspectorate are very good at ensuring through  
23 their work that employers do appropriately make  
24 referrals to us.

25 Q. Just looking down at category 3, the referrals received

1 in respect of workers employed by the City of Edinburgh  
2 Secure Services, these were the ones closed without  
3 a sanction, and you told us something about that  
4 earlier. These are all cases closed, but I think it  
5 seems from category 2 that there are still Edinburgh  
6 Secure Services cases extant?

7 A. Yes, that's right.

8 Q. They are still being investigated?

9 A. Yes, I think there are two of them, aren't there. Yes,  
10 two.

11 Q. I think there are examples of cases arising from all the  
12 different still operating secure services?

13 A. Yes.

14 MR SHELDON: Maree, those are all the questions and issues  
15 that I have. Unless my Lady has any further questions  
16 to ask, then thank you very much for your evidence  
17 today.

18 A. Thank you.

19 Thank you, my Lady.

20 LADY SMITH: It just remains for me to thank you, Maree, so  
21 much. Thank you for bearing with me with my questions  
22 being tossed at you without any warning. It has been  
23 really helpful to hear from you and hear the examples  
24 you have been able to give us to illustrate some of the  
25 points you have been making, and also that you have

1 provided us with such a neat, succinct, but rich, if  
2 I can put it that way, report to help with your evidence  
3 today.

4 Thank you so much.

5 A. Thank you.

6 LADY SMITH: I am now able to let you go.

7 A. Thank you.

8 (The witness withdrew)

9 LADY SMITH: Obviously no more evidence today, Mr Sheldon --

10 MR SHELDON: No, my Lady.

11 LADY SMITH: -- I think what you trailed earlier in the

12 week. But 10 o'clock tomorrow morning we have?

13 MR SHELDON: 10 o'clock tomorrow I am handing the baton over

14 to Mr Peoples for tomorrow.

15 LADY SMITH: Thank you very much indeed.

16 I think, Mr Peoples -- do you have a microphone

17 there?

18 MR PEOPLES: Yes.

19 LADY SMITH: If you can just confirm tomorrow?

20 MR PEOPLES: Dr Chiswick and a read in of one other witness.

21 LADY SMITH: That may run into tomorrow afternoon, depending

22 on how long Dr Chiswick takes?

23 MR PEOPLES: I think it could do.

24 LADY SMITH: Very well.

25 Thank you very much. I will rise now until

1 10 o'clock tomorrow morning.

2 (3.23 pm)

3 (The hearing adjourned until 10.00 am the following day)

4

5

6

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

Maree Allison (sworn) .....1  
Questions from Mr Sheldon .....2

