

Wednesday, 27 September 2023

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

(10.00 am)

Helen Happer (continued)

Andrew Sloan (continued)

LADY SMITH: Good morning.

Helen, Andy, welcome back. Thank you for being ready to run into a second day. I'm really grateful to you and I hope you managed to get some respite overnight.

Mr MacAulay.

MR MACAULAY: Good morning, my Lady.

Questions from Mr MacAulay (continued)

MR MACAULAY: I'm now moving into parts of your report where areas have been largely covered in what we discussed yesterday, so I think I can promise you a much shorter day today.

But good morning to both of you.

If you could turn, please, to page 44 of the report. It's the section headed 12.3. This section is dealing with the regulator's role in preventing and detecting abuse.

The point you make at the very outset is that the primary role and responsibility for providing a safe environment rests with the provider.

MS HAPPER: That's correct.

1 Q. That's the context in which you, as regulators, operate?

2 A. Yes.

3 Q. As we discussed yesterday, that whole process of

4 regulation involves registration, inspection, complaints

5 procedures, enforcement, improvement and so on?

6 A. That's correct, yes.

7 Q. Then the next section on page 46, this is at 12.4, where

8 you have a section dealing with the assessment of the

9 effectiveness of the regulations preventing and/or

10 detecting abuse. Again, we touched upon this yesterday,

11 but I think your position is that you see yourselves as

12 regulators playing an important role in preventing and

13 indeed detecting abuse?

14 A. Yes.

15 Q. But you recognise the challenges?

16 A. Yes.

17 Q. Perhaps you could just remind us as to what you see the

18 primary challenges to be.

19 A. One of the biggest challenges as a regulator is that

20 when we inspect services we are only in for a fairly

21 short period of time at the service on a routine basis.

22 That means that notwithstanding our inspections are now

23 unannounced and that we take intelligence from other

24 sources and we think about the context in which that

25 service is operating and any particular risks that that

1 service has.

2 We are very dependent on what we see when we're
3 there and what people tell us. And you can't know what
4 people haven't told you about. We spoke yesterday at
5 some length about the challenges that we see in terms of
6 getting information in real time from young people about
7 their experiences. There are a lot of barriers to young
8 people telling a stranger -- we are strangers to them --
9 about what is happening and then, even if there's
10 information that comes forward, to try to really make
11 sense of that, that's a really, really tough challenge
12 for us.

13 So that's a significant problem for us.

14 The other problem is in terms of notifications,
15 which we spoke about yesterday, that we are dependent in
16 many ways on the service's honesty at telling us what
17 has happened and of alerting us to issues that we might
18 want to explore further.

19 We do have opportunities when we're inspecting to
20 cross-reference, to look at records and we spoke about
21 that yesterday, to cross-reference records and then say,
22 "Well, you didn't notify us about those incidents", for
23 example. Where we do find that, we are immediately on
24 putting the provider on notice that we consider that
25 a serious breach and that we are considering that a high

1 risk, because we have to be able to trust providers to
2 some degree and the message we're giving to providers
3 is: if you don't tell us things and we find out, we
4 can't trust you and therefore you need to expect us to
5 be much more vigilant, to be inspecting more and so on.

6 Certainly we have reinforced that over the last
7 year, where we have really been thoughtful about
8 situations where we haven't been notified and where we
9 find that. Those are the biggest challenges for us, is
10 that we really don't have a large regular footprint,
11 frequent footprint, into a lot of services. We have
12 a lot of services to manage over a short period of time.

13 Q. But to meet these challenges what you say in the report
14 is that you require to have highly skilled and
15 experienced specialist inspectors?

16 A. Yes, we do.

17 Q. If I just focus on that for a moment or two and look at
18 what you say from page 48 at 12.5.1.6 onwards. You
19 begin by telling us that the knowledge and skills of
20 inspectors have also been developed and validated with
21 improvements to the formal qualification and regulation,
22 which inspectors are required to possess.

23 Before I look at what you say there, what do you
24 look for in an inspector when you are recruiting for
25 that particular post?

1 A. All of our inspectors in the children and young people's
2 team have -- all of our inspectors have professional
3 qualifications, but all of our inspectors in the
4 children and young people team are qualified social
5 workers. When we recruit we have I think a fairly
6 rigorous, I would say, recruitment process, where we
7 have a set of core competencies that we're looking for.
8 We have people who are not only qualified professionally
9 but have a significant experience in the delivery of the
10 services that we're inspecting, but also significant
11 experience in communication with children and young
12 people and an understanding of where children and young
13 people in public care have the experiences that they
14 have.

15 We are looking for people with an understanding of
16 trauma and protection issues and vulnerability.

17 Q. Do the track records that we see in both your CVs, are
18 these mirrored in the track records of those that you
19 are trying to recruit for the position of inspector?

20 A. We wouldn't be asking for the same management
21 experience, but certainly in terms of the kind of
22 background of people, yes, that's the kind of people
23 that we're recruiting.

24 Q. What you tell us is that within six months, this is on
25 page 49, of starting their employment, inspectors are

1 required to register with the SSSC?

2 A. That's correct.

3 Q. They are then qualified social workers, even before they
4 are registered?

5 A. Yes, that is correct, yes.

6 MR SLOAN: Just to say, that not all will be qualified --
7 are qualified social workers. For example, we have
8 a CAMHS nurse who we in our most recruitment exercise
9 employed, so we have some people that have very
10 specialist experience that we think will add value to
11 the inspection process that we recruit as well. The
12 vast, vast majority are qualified social workers, but
13 it's not everyone.

14 LADY SMITH: If you take a CAMHS nurse, the CAMHS nurse will
15 have a professional qualification and be regulated by
16 the profession of which the person is part.

17 A. Yes.

18 MS HAPPER: Apologies, I should have clarified that. They
19 would be registered with the NMC --

20 LADY SMITH: Of course, yes.

21 A. -- so an allied health professional.

22 MR MACAULAY: The six-month period, why is there that gap
23 between starting with the Care Inspectorate and the
24 registration with the SSSC?

25 MS HAPPER: It's to make sure that the staff member, we have

1 managed all the recruitment process, that they actually
2 come into post, that we can process the registration
3 with SSSC. These things take a bit of time.

4 Q. And --

5 MR SLOAN: That is a standard for all staff registering
6 across all categories with the SSSC. There is a window
7 of opportunity from the time that they start employment
8 to when they are required to register.

9 Q. The reference you make at paragraph 12.5.1.7 to
10 a further specialist qualification and regulation, can
11 you explain that?

12 MS HAPPER: So in the past at some -- we had a qualification
13 called ROCA, which was Registration of Care Award, and
14 many inspectors undertook that professional learning as
15 a regulator. That qualification had done its time and
16 has been replaced with something called the Professional
17 Development Award, which has been developed as an offer
18 to our inspectors. It is not a professional
19 qualification in the sense of a social work
20 qualification. It's not a requirement for us that
21 somebody undertakes that in order to make them reach
22 a threshold for being an inspector, if you like. We
23 recruit people on the basis that they are competent to
24 be inspectors and we support them in that way.

25 What the PDA is designed to do is to offer

1 an opportunity for people to think much more and
2 consider how their work as a regulator fits in to the
3 wider scheme of the support and protection and the
4 improvement of quality, the best experience for people
5 who use public services. So it's an opportunity for
6 people to really develop some skills in the craft and
7 some knowledge around the quite unique position of being
8 a regulator, so it's very much focused on understanding
9 your place as a regulator.

10 Q. You mention at 12.5.1.9 that as part of an inspector's
11 registration with the SSSC, they are also required to
12 undertake a minimum of 150 hours of ongoing training,
13 every five years?

14 A. Yes, it's every three years.

15 Is it?

16 Q. I'm just reading the report, it is over every five-year
17 registration period?

18 A. Apologies.

19 Q. Is it five or three?

20 MR SLOAN: I think for SCSWIS officers and authorised
21 persons its five, for social workers it is three.

22 Q. I see.

23 MS HAPPER: Where our staff are social workers and
24 registered with the SSSC, we encourage people to
25 maintain that registration as well as being registered

1 as an authorised officer.

2 Q. Is this a form of continuous practice development?

3 A. It is.

4 Q. The next section in the report at page 50, 12.5.2, you
5 recap, I think, on matters such as standards,
6 inspection, frameworks and inspection guidance. Much of
7 this has already been covered, as indeed has the section
8 on page 52 at 12.5.3, where you talk about statutory
9 inspection targets and resources.

10 Moving on to 12.5.4, which is on page 54, this is
11 the section dealing with listening to young people and
12 acting on their concerns. We have already in the main
13 covered this, but what you do say I think on page 55,
14 that you do recognise the limitations of your past
15 engagement and you are trying to build upon that
16 recognition?

17 A. Yes, that's correct. We are very conscious of it.

18 Q. Perhaps looking at the final paragraph in that
19 particular section, 12.5.4.5, towards the bottom of the
20 page, you mention again the low volume of complaints
21 that you receive from children and young people. That,
22 I think, is causing you to examine how best you can
23 promote yourselves?

24 A. That's correct.

25 Q. Your question, I think: is your profile high enough for

1 children and young persons to be aware of what you can
2 do for them essentially?

3 A. Yes. I think it's the profile and the understanding,
4 because I think we shouldn't be fooled into thinking
5 that if we made our name known and had posters up
6 everywhere and so on that just because a young person
7 knows that there's something called the Care
8 Inspectorate that that will make them feel more
9 confident to speak to us. It's really about the
10 understanding of our role and the trust they would have
11 in us, that if they were to tell us something that was
12 of concern to them, that we would take that seriously
13 and that we would act quickly and sensitively about
14 that. So it's both. It's not just the name.

15 MR SLOAN: I think equally significantly is making sure that
16 the people and individuals external to the service that
17 have an ongoing relationship with young people know
18 about the Care Inspectorate and feel comfortable
19 engaging with us. That's not just through formal
20 inspection activity, but through just informal
21 communication, when they pick up on an issue or they
22 feel that they want to speak to us about a question that
23 they have, which goes back to the project that we have
24 been working on for the past 12 months in terms of the
25 communication with placing social workers, because

1 I think no matter how much we, as Helen echoes, raise
2 our profile with young people, we are still a very small
3 part of their social network and that circle. I think
4 we have to bolt on really, really significant pieces
5 about engaging with the people that the young people
6 will have an ongoing relationship with in terms of
7 getting that feedback. I think that's why we're quite
8 excited by some of the feedback that we have been
9 getting from the focus groups from placing social
10 workers about how we can improve that.

11 LADY SMITH: Andy, if a young person said to you, "I've got
12 a complaint, who do I speak to?" What would you say to
13 them?

14 A. Well, I would say: well, you can speak to me.

15 LADY SMITH: You can, but if they're -- all right, say they
16 explain a little bit more, that, "I know there are all
17 sorts of people out there and organisations out there,
18 I don't know who to go to", because swimming in their
19 head there could be a whole range of people from their
20 social worker to the police, possibly you people,
21 possibly Children 1st, possibly ChildLine, what do I do?
22 They say. They might even have heard of the Children's
23 Commissioner as well, if the Children's Commissioner has
24 been in touch.

25 A. I wouldn't want to speak for young people, because

1 I think there is probably a piece of research work that
2 would help with that, but I think in terms of young
3 people's lives in that moment, they don't think about
4 organisations or groups, they think about the immediacy
5 of the person that they can trust and that they have
6 a relationship with. That's who they're going to speak
7 to about. They're not -- you know, it's a very
8 adult-orientated bureaucratic thing to put up a poster
9 and have the name of an organisation. The immediacy for
10 a young person who is suffering loss and trauma and away
11 from -- has been pulled away by the State, away from who
12 they perceive either supportive social networks, whether
13 they are or they are not, means that they're attaching
14 themselves to the immediacy of an individual that they
15 feel that they can trust and that they can speak to,
16 I think.

17 I think that's where it's then the job of that
18 person to know who is the most appropriate organisation
19 or advocacy group or placing commissioner to then speak
20 to, to be able to advocate and be that liaison for that
21 young person in the actions that they want to take.

22 LADY SMITH: Children also listen to each other, I suppose.
23 I wonder if there is an opportunity for the Inspectorate
24 to make it clear when they are in institutions or as
25 this case study is particularly interested in secure

1 establishments, that we want to hear from you if you
2 have worries and keep getting that message out and maybe
3 some of them will remember, "When that man, Andy, or
4 that woman, Helen, was here, they said we can speak to
5 them" and, as you mentioned yesterday, "They said there
6 is an app that we can get on to. Shall we try them?
7 Maybe you should try them?"

8 A. Yes. I think that's crucial. It's that accessibility
9 and awareness. As I say, I think we've made strides but
10 as we talked about yesterday, a questionnaire, I don't
11 know how other people in this room feel when they get
12 asked to complete a questionnaire, but to ask a young
13 person that, we need to progress that to where young
14 people are at in today's world and about how they
15 communicate and that's the job for us as we move
16 forward.

17 LADY SMITH: Yes. It's also, I suppose, a matter of making
18 it clear to the young people when you are in the places
19 where they are that they're your primary interest and
20 yes, they'll be aware of you doing all the office stuff,
21 as they might think of it, and talking to the managers,
22 as they might think of them as well, but what you're
23 most interested in is them. That's to do with the way
24 you talk, the way you behave, the way you work at
25 building their respect and confidence, I suppose?

1 MS HAPPER: Yes.

2 LADY SMITH: Is that right?

3 MR SLOAN: Yes. Again, I think we've made that explicit in
4 our inspection procedures over the last couple of years,
5 that for example the importance of the symbolism, as
6 mentioned yesterday, of who you go and speak to first
7 when you go into a service. It's about the perceptions
8 of you go into the door, the manager comes to the door
9 and says, "Oh, hello. It's really nice to meet you".
10 Of course as an inspector you want to put the manager at
11 ease and be pleasant and then you go to the office.
12 What are the symbolic messages that are being sent to
13 the young people about that when you then leave that
14 office after an hour, after you've got all your
15 information that you need for your inspection, to then
16 go and speak to young people, rather than speak to the
17 manager, are there any concerns I should have? Is there
18 any risk assessment? Is there any young people who
19 would feel ill at ease speaking to me? Right, I just
20 want to get out there and I'll do that first. It sends
21 really important, symbolic messages and I think it's
22 over the years we've become more and more aware of the
23 importance of that.

24 LADY SMITH: Good. Thank you.

25 Mr MacAulay.

1 MR MACAULAY: You move on, on page 56, to a section headed:

2 "Engaging with the other stakeholders responsible
3 for protecting children and young people."

4 That is just below halfway on that page. Clearly
5 that is important, is it not?

6 MS HAPPER: Yes, it's very important.

7 Q. I think what you tell us in the last paragraph there,
8 who these stakeholders might be, including the placing
9 social worker and that individual must play an important
10 role in the communication line with the child?

11 A. Yes, absolutely. I think we mentioned yesterday that
12 one of the most important things is that the placing
13 social worker, the responsible social worker, is the
14 person that is most likely to have had the relationship
15 with the child through the journey, so has been involved
16 in critical decisions about the child's placement in the
17 first place and then afterwards and so has that
18 continuity of care. That's one of the reasons it's so
19 important for us to have better engagement with those
20 social workers.

21 Q. Do you make an assessment when you carry out your
22 inspection to see how often a social worker has been in
23 contact with a particular child or young person?

24 MR SLOAN: Yes, that would be part of the review of our
25 records, yes.

1 Q. On page 57 you begin by saying at paragraph 12.5.5.3
2 that in the first years of the Care Commission
3 inspection activity was almost exclusively a two-way
4 process. I think you mean by that between the
5 registered service and the inspector?

6 A. That's correct.

7 Q. But that has changed?

8 A. Yes.

9 Q. And that in particular communication with other relevant
10 individuals was very important in that process?

11 A. Yes.

12 Q. In 12.5.5.5 you make reference to a project of research
13 in 2022, that you refer to as a game changer. Can you
14 tell me about that?

15 A. Well, that's the -- the terminology is the Lens project
16 that an inspector and myself have been working on with
17 the placing social workers, so what we've -- just
18 repeating from yesterday, we have met with two Local
19 Authorities in two different parts of the country and
20 met with focus groups of placing social workers to ask
21 them what would improve their communication with us in
22 terms of not just at inspection, because we said we want
23 to improve the uptake at inspection activity, but also
24 what would make them feel that they could pick up the
25 phone to us and have a relationship with the caseholding

1 inspector, if they had a question or a concern or
2 something that was softer intelligence. It wasn't
3 something that they might want to formally make
4 a complaint about, but might be something that they
5 would want us to be aware of.

6 What we found was, as I say, that there was some
7 confusion about our role between the strategic
8 inspection role and our regulated services role and they
9 were really unclear about our willingness and desire for
10 that information. To be fair to the placing social
11 workers and the focus groups, it was them that came up
12 with a whole range of really creative solutions that
13 would improve that. We gave some examples yesterday.
14 As I say, our report is going to go to Helen and I think
15 it's pending. I think we have a meeting date for
16 that --

17 MS HAPPER: Next week.

18 MR SLOAN: To move forward with the actual strategies, the
19 workstreams, arising from those focus groups. As I say,
20 the reason for the term "game changer" is, is what we
21 ran for a couple of the pilot focus groups was a mock
22 briefing training presentation about the role of the
23 Care Inspectorate. After we had run it one of the
24 social workers described it as a game changer for her,
25 in terms of how she would view communication with the

1 Care Inspectorate when she places a child to be looked
2 after and accommodated. That was the tenor of, I would
3 say, the majority of the focus group participants.

4 Q. The report from your focus group is going to Helen and
5 there will be ongoing work thereafter?

6 A. Yes.

7 MS HAPPER: Just to clarify. The reason that Andy was
8 calling it the Lens is that this piece of work arose out
9 of some work that we did in the Care Inspectorate,
10 across our inspection staff, where we made monies
11 available to staff on the ground, frontline inspecting
12 staff, who had an idea that they wanted to explore, that
13 they thought might move forward something that had been
14 stuck, these kinds of conversations that staff have in
15 their teams in the coffee room, you think if only we
16 could do this or if only we could do that. It arose
17 from that and we provided some mentoring to help
18 somebody shape up the project and develop it and then
19 people put those forward. A number of those were chosen
20 across the organisation for further development.

21 The winner, if you like, of that piece of work was
22 Andrew, in Andy's team, and we have taken on that piece
23 of work and been nurturing it and supporting that piece
24 of work and mentoring that to get to this point. Then
25 with the expectation that that will then become a piece

1 of mainstream practice and really change things for us.

2 Q. Can I take you then now to page 60 of the report, where
3 you have a section dealing with information and
4 communication technologies that support risk assessment
5 and chronologies.

6 You begin the section at 12.5.8.1 by saying that the
7 ICT infrastructure required to support the scrutiny of
8 regulated care services is necessarily complex and
9 sophisticated. Can you just explain that to me?

10 A. We have a legacy of a number of different pieces of IT
11 systems that have been developed over the lifetime of
12 the Care Commission and then were brought into the Care
13 Inspectorate, because the Care Inspectorate inherited
14 the Care Commission's systems. All of those systems
15 have been developed at different times and have been
16 bolted on to each other. The difference in technology
17 between 2023 and where we were at in 2002 is just --
18 it's like the NASA technology now compared to how it was
19 then.

20 Part of the difficulty -- I'm not an IT expert, but
21 my understanding from our IT colleagues is that part of
22 the difficulty in adding two different pieces of
23 software as you go along and different systems, is that
24 you end up creating a monster that is really fragile,
25 and becomes incredibly complicated. So our inspectors,

1 if they have a query at the moment have to navigate in
2 and out of about seven or eight different systems trying
3 to find things. Trying to find information is really,
4 really difficult.

5 We touched yesterday on one of the major challenges
6 for ourselves in the Care Inspectorate, as it is for
7 many, many public bodies, in that we have increasing
8 demands, increasing expectations and limited resources.
9 There's always a pressure for us around achieving
10 inspection targets, like the number of establishments we
11 should be visiting and want to visit, because if we're
12 not there we won't know anything. The risk-based
13 intelligence-led model that we think we ought to be in,
14 which is not wasting time doing things that are not
15 really hitting the mark, but being able where we have
16 concerns or where we find something that needs to be
17 improved, really making sure that we focus on that, that
18 we are like terriers, that we follow it up, that we go
19 back, that we give it that attention and that we follow
20 things up to make sure that improvements have actually
21 been made and are being sustained. That's a continual
22 tension.

23 If we're going to develop that model, really work
24 along that model, we have to have better intelligence.
25 That means getting intelligence into the organisation,

1 but it also means being able to manage it properly, not
2 being able to see the wood for the trees, not just
3 having a lot of stuff sitting in a system, but being
4 able to analyse that and understand it and pull it out,
5 knowing what might indicate risk and being able to get
6 that quickly. That really means a whole rebuild of our
7 systems.

8 We have been in discussion for a significant length
9 of time with Scottish Government about how that could be
10 funded. Resources have been made available to us and we
11 now have a transformation project, which will run over
12 a four-year period, to help us develop a system that
13 will support the direction of travel that we need to
14 take the organisation in. It's a big, big job.

15 Q. Do I take it from what you're saying is that you
16 recognise that ICT systems would play a crucial role in
17 supporting the robustness and accessibility of
18 information?

19 A. It's critical. We can't do it. We cannot do that
20 without an IT system that will support it.

21 Q. What you tell us in the report, on page 61, is that in
22 2018 it was recognised that radical change was required
23 in terms of ICT capability?

24 A. Yes.

25 Q. Do I take it from then until very recently you have had

1 to make use of what you had, essentially?

2 A. We have. We have developed some new pieces of
3 technology, so we have a complaints app now. We have
4 a registration app and app land we live in, and
5 a project that is ongoing. Certainly I wouldn't want to
6 give the impression that nothing has happened in that
7 period of time. On the contrary, there has been a lot
8 of activity and a huge amount of attention to it, but we
9 did recognise that without a significant tranche of
10 resourcing and a formal project, with a governance
11 structure and so on, we were still tinkering around the
12 edges. That has now, fairly recently, been in place and
13 we're very grateful to the Scottish Government for their
14 support with that.

15 Q. When you say fairly recently, it was earlier this year
16 that they agreed to support?

17 A. Yes.

18 Q. On the face of it that looks quite a lengthy period of
19 time from concerns in 2018, let's say, to support being
20 offered in 2023?

21 A. There has been some support, but in terms of this
22 transformation project, yes, it's been a long haul but
23 resourcing is a very, very difficult issue for
24 everybody, very difficult.

25 Q. Do you have a timeframe for when this work might be --

1 A. It started and it will run over the course of four
2 financial years, so I think it's really a three-year
3 project but it's being funded over four financial years.

4 Q. If we look to page 62 of the report you have a section
5 there, 13, headed:

6 "Care Inspectorate concerns for care and protection
7 in other establishments."

8 Just to look at 12.2, what you tell us is that in
9 April 2023 14 registered services for looked after and
10 accommodated children were graded "weak".

11 On the face of it, that looks quite a significant
12 statistic. Is it?

13 A. We have had 792 I think registered services, so it's
14 a small proportion, but any service that is graded weak
15 is a matter of concern. We wouldn't just say it's just
16 a small number, so we would be concerned about that.

17 Q. The services that required enforcement action, I think
18 you mentioned there were three registered services, so
19 that is moving down the line to dealing with a service
20 that hasn't responded essentially?

21 A. Yes. I think that's an important point actually,
22 because the concern is not just a service that is graded
23 weak. The concern, and we have to be very thoughtful,
24 is: how long is that service remaining weak. If
25 a service is weak we want to be on to that. We want to

1 take action that helps to support that service to
2 improve or, if it can't improve, we need to move quickly
3 and decisively to take some other action around that.
4 It's not just about the weak itself, it's about the
5 length of time that that service stays weak.

6 Q. I would imagine that the co-operating provider would
7 seek to respond to that sort of grading?

8 MR SLOAN: Yes.

9 MS HAPPER: Yes, but they also have to show that they can
10 sustain that too.

11 MR SLOAN: I think that is important, I think maybe
12 yesterday we focused on the willingness of the provider
13 to improve. We also assessed the capacity of the
14 provider to improve. It's not just about good
15 intentions. It's about our assessment of their capacity
16 to improve, that is part of that assessment about
17 whether an improvement notice is required.

18 Q. The last section in your report is section 15, but
19 before I come to that, I want to put to you some
20 evidence that has already been given to the Inquiry by
21 a former inspector, Marion Crawford. I am assuming you
22 have had the opportunity of seeing her evidence in the
23 transcript?

24 MS HAPPER: Yes.

25 Q. Her transcript is at TRN-8-000000064. If I can turn to

1 page 85, that is the bottom right-hand corner, at number
2 12 on the left-hand side -- can I just remind you, she
3 was a former inspector. She is now retired, she says:

4 "You make the point that you did not receive direct
5 training on child protection and safeguarding from the
6 Care Inspectorate.

7 "Answer: Yes.

8 "Question: Such training wasn't offered?"

9 Then -- we did ask for it, I think this is a quote
10 from her statement:

11 "Such training wasn't offered, we did ask for it,
12 but the only training we had was more geared to the
13 inspection aspects of inspecting child protection and
14 safeguarding."

15 She was an inspector from 2001 to about 2013. Have
16 you any questions to make on that observation?

17 A. I'm not exactly sure what is meant by "the inspection
18 aspects of inspecting child protection". It certainly
19 would be true that in her role as an inspector she would
20 not have been offered this kind of child protection
21 training that might be offered perhaps to a social
22 worker who was undertaking child protection
23 investigations, for example, because that wouldn't have
24 been Ms Crawford's role. I find that quite difficult to
25 work out.

1 I have to be clear though that we have not been, as
2 an organisation, completely satisfied with the child
3 protection training that we have offered to our
4 inspection staff, because what we've had was
5 opportunities for people to do things that has been
6 perhaps slightly piecemeal. We have offered training to
7 one group at a certain point or another set of training
8 on something else that's become a new protection issue
9 and staff have been offered training for that. What we
10 haven't done until just now, the project that's been
11 running for a wee while, has been to develop a coherent
12 programme of training so that staff come in and from
13 induction we then are tracking what training everybody's
14 had, that we have different levels of training. So
15 there's training for all staff and then advanced
16 training for staff who are on the front line and then
17 expert training for staff, including inspectors who are
18 inspecting Children and Young People's Services.

19 We now have a framework that has been set up and
20 about to be delivered, I think October is the launch
21 date for the first set of that, which will build into
22 a module for people. So it's about the organisation of
23 the training and the systemisation of that, that I think
24 we weren't entirely comfortable with and have worked to
25 develop.

1 MR SLOAN: I think I would just also -- during the period of
2 the Care Commission, we talked about the regional
3 structure of that and training was devolved to regions
4 at that point. Again, that just echoes what Helen was
5 saying, that that made that process more fragmented than
6 it needed to be in terms of national training
7 programmes, because that was devolved down to regional
8 level and sometimes even down to locality level in terms
9 of the training for the small groups of inspectors who
10 held generic caseloads at that time.

11 I would say that since the development of the
12 National Children and Young People's Team in 2012/2013,
13 I think we have had a much more co-ordinated approach to
14 training, that is targeted to that core group of
15 inspectors that are performing the inspection of
16 Children and Young People's Services. That has included
17 a focus on child protection --

18 Q. That then would coincide with about the time that
19 Marion Crawford left the service?

20 MS HAPPER: Yes, I think she left in 2012.

21 LADY SMITH: Just for completeness, we should probably note
22 that she gave evidence during the foster care case
23 study.

24 MR MACAULAY: I think it was the boarding schools.

25 LADY SMITH: I thought it was 2022 that she was giving

1 evidence?

2 MR MACAULAY: I have noted boarding schools.

3 LADY SMITH: It was at the top of her -- maybe it was. It
4 was at the top of her transcript, we had the date. If
5 we just go to the beginning of the transcript because
6 the date will be there. January 2022, it's Mr Brown.
7 We were still --

8 MR MACAULAY: It's Mr Brown, yes.

9 LADY SMITH: It was the finish of the boarding school
10 evidence. Thank you.

11 MR MACAULAY: As we have seen then, she is possibly making
12 a point, but in any event that's been superseded by
13 events?

14 MR SLOAN: Yes.

15 MS HAPPER: Yes.

16 Q. Another point I want to just put to you in connection
17 with her evidence is on page 101 of the transcript.
18 It's at line 9 and what she says is this:

19 "When I was about to retire there were moves afoot
20 in the Care Inspectorate to have only one inspector
21 carrying out an inspection and a lot of the care
22 inspectors were extremely concerned about that, because
23 we felt that working with a colleague in large
24 organisations like the boarding schools was absolutely
25 vital ..."

1 That looks like a strange comment, standing with the
2 evidence that we have heard from yourselves as to the
3 importance of working in teams. Can you make any sense
4 of that?

5 MR SLOAN: No.

6 MS HAPPER: I'm not sure where that came from. I wasn't
7 aware that there had ever been that conversation and it
8 would have been a strange conversation, but I can't say
9 that there wasn't a conversation like that at some
10 point. But I can confirm that we absolutely agree it's
11 not just to have somebody else to speak to and to
12 triangulate information with. It's also about the
13 logistics that you can speak to more young people,
14 somebody could be speaking to young people or playing
15 pool or cooking or something with a young person whilst
16 you are speaking to staff. So it's really important for
17 us that we undertake those inspections in small teams.

18 MR SLOAN: The inspection resource for boarding schools and
19 secure accommodation services has increased
20 significantly since the national teams of 2017/2018, at
21 least formally. There may have been occasions within
22 the Care Commission where a singleton inspector went out
23 to large organisations, I think there were, but that
24 certainly has not been the journey of travel to lessen
25 that.

1 Q. If we take a broad overview of the more recent position,
2 let's say from 2015 to date. From what you have said in
3 evidence there has been significant changes in the way
4 that you operate --

5 MS HAPPER: Yes.

6 Q. -- as the Care Inspectorate? You have directed us to
7 the work that's been done, and you would define the
8 nature of the changes as evolution which has improved
9 the service?

10 MS HAPPER: Yes, I believe so.

11 MR SLOAN: Yes.

12 Q. It does seem to be the case that that evolutionary
13 process has in fact been happening during the life of
14 the Inquiry?

15 MS HAPPER: Yes. Definitely. Yes.

16 Q. Does the Inquiry cast a shadow over your work, in the
17 sense of inspiring you to evolve quicker in what you do?

18 A. It certainly focuses the mind.

19 Q. The Care Inspectorate is a corporate body.

20 A. It is.

21 Q. It's independent of Government?

22 A. Yes.

23 Q. Yesterday we looked at the organisational charts that we
24 looked at, but above that, can you just tell me a little
25 bit about the structure?

1 A. I report to our Director of Scrutiny and Assurance. Our
2 Director reports to the Chief Executive, who is the
3 accountable officer for the organisation. Then above
4 that we have a board with a Chair and that board is
5 constituted with a number of subgroups in it. The board
6 is responsible for setting the direction for the
7 organisation and making sure that there is proper
8 oversight of our business.

9 Q. The final section of your report on page 63, section 15,
10 is one where you -- I think this was on the Inquiry's
11 invitation -- consider options for changes to practice,
12 policy and legislation that would better protect
13 children and young persons who are accommodated in
14 residential establishments for children in care.

15 We have already mentioned the Crerar Review and The
16 Promise as being an important trigger for improvement
17 and change?

18 A. Yes, definitely.

19 Q. That is something you are looking at?

20 A. Yes.

21 Q. You also put forward some other options or suggestions
22 and you begin by looking at registration. Can you tell
23 me what your feeling there is in relation to perhaps
24 change or improvement in the system of registration?

25 A. Firstly, I would want to thank you for the opportunity

1 actually to put some things forward here. The reason
2 that we have started with registration is it feels to us
3 as if it's the foremost plank that will help protect
4 children by ensuring a certain level of quality and by
5 taking out of the market, if you like, the provider
6 pool, people who are not suited to be able to run
7 an establishment. But there are some frustrations,
8 I would say, around that.

9 One we mention in the report is around the grounds
10 that we have that we're able to deny registration.
11 I think it's very difficult, certainly from my mailbox
12 I would say it's difficult sometimes for the public --
13 and sometimes elected members who are contacting us on
14 behalf of the public -- to understand that we have to
15 work within certain grounds for refusing registration.
16 And the fact that a service perhaps isn't needed in
17 an area is not a reason for us to refuse registration.

18 So where people are saying there's a provider who
19 wants to set up, for example -- we touched on this
20 yesterday -- a service in our area to provide care
21 placements for children from other parts of the UK, it's
22 not needed in our area, so we don't want to have that
23 here. That's not a ground for us to refuse
24 registration.

25 Q. I think what you said yesterday in that situation that

1 that's quite an attractive financial proposition for the
2 would-be provider?

3 A. Yes, they're running a business.

4 So that's an important point.

5 Another important point really is the fact that we
6 register a service, so we have to be concerned around
7 the manager of that service and their fitness. That's
8 different from the provider of the service in many
9 cases, not always, but in many cases. That's
10 a different person. At the moment it is of concern to
11 us that the provider of the service does not have to
12 demonstrate a knowledge and a background in
13 an understanding of children, of trauma, of care, of
14 Social Services, of delivering any of that. So the
15 provider doesn't have to have that. They have to put
16 a manager in, that would be a fit person, but the
17 provider doesn't.

18 The manager is often having to work within the
19 resources and also with the understanding, so the
20 policies and so on, set by the provider. That seems to
21 us to be something that was probably never the intention
22 of legislation and certainly is something that is
23 problematic at times.

24 Q. It does look surprising, as you say, that a prospective
25 applicant's knowledge and experience is not considered

1 relevant to an application.

2 A. Yes.

3 Q. Moving on, you, I think, make what you describe as
4 a radical legislative change proposal. What are you
5 putting forward?

6 A. At the moment we, as I said, register the service and
7 everything then operates on a kind of service basis, so
8 where we take enforcement and so on, we are looking at
9 the service specifically. It does mean that providers
10 who have perhaps the most skin in the game really are
11 not -- the line of accountability to the provider is
12 much less.

13 We would have been talking and considering quite
14 a lot about the idea of a provider registration, which
15 would mean that were we to have concerns about say three
16 services run by the same provider who runs eight
17 services for example, at the moment we act in relation
18 to each individual service. If we had a different model
19 for registration, where the provider was registered, we
20 wouldn't have to go and inspect all eight services and
21 take action against all of those services. We would be
22 able to make conditions on the provider, even if we had
23 concerns only about say three of those services.

24 That does make us think very differently, but for us
25 would mean that we would have more levers with the

1 people who are most responsible and who have the most to
2 gain from running the service.

3 Q. You envisage this model to be a licensing-type model?

4 A. I've used the term "licensing", I know that's
5 a particular term, because it feels like the easiest way
6 to describe it. I'm sure there are legal definitions of
7 licensing that might be problematic.

8 Q. The final point you make on page 64, at 15.2.1.4, is
9 there you are focusing on the provider and the staff
10 employed by the provider. What is the point you are
11 seeking to make there?

12 MR SLOAN: We know that especially at the current time there
13 are significant pressures on the recruitment within the
14 social care sector, and care homes for children and
15 young people in secure accommodation services are no
16 different from that.

17 Because of those pressures, some providers, quite
18 understandably and appropriately, are using recruitment
19 agencies to plug the gaps in their permanent staff teams
20 while they recruit. The challenge though is those
21 recruitment agencies, which they source those staff
22 from, are not themselves registered with any regulatory
23 body. So while we would go in and inspect the care
24 service and check their safer recruitment procedures,
25 their registration with the SSSC and the PVG checks

1 et cetera, the staff that are being sourced from the
2 recruitment agency have no scrutiny or regulation.

3 That is then up to the care service to assure
4 themselves that the recruitment agency is undertaking
5 appropriate safer recruitment processes, but the care
6 services themselves don't have any powers actually of
7 scrutiny or sourcing of records or whatever to do that.
8 We believe that that's a gap in the regulatory framework
9 for the safeguarding of children and young people, in
10 terms of the safe recruitment of staff who will have
11 direct contact with children and young people.

12 LADY SMITH: I see what you mean, Andy, because of course
13 typically agency staff are employed by their agencies,
14 if by anybody, or some individuals may have their own
15 companies that sell their services to the agency that
16 then provides them on to the place that uses them. But
17 they're not the employees of the place where they go to
18 work.

19 MR MACAULAY: You describe this in the report as
20 "a significant gap in regulatory oversight".

21 A. Yes, we believe it is.

22 Q. This is a matter you have covered in your recent
23 submission to the Independent Review of Inspection,
24 Scrutiny and Regulation in Scotland?

25 A. Yes.

1 MS HAPPER: We have.

2 Q. That is about to be published?

3 A. Tomorrow I believe, yes.

4 We think it's significant, but increasing because of
5 the increase in the number of agency staff who are
6 working in the field at the moment.

7 Q. These points you have been raising would all require
8 legislation?

9 A. Yes.

10 MR SLOAN: Yes.

11 Q. You then look at inspection, and this is on pages 64
12 through to 65. We have already spent some time looking
13 at how the system now works and has worked over time.

14 I think you still say that there's a tension between
15 inspection frequency and the size of the regulatory
16 footprint. Can you just develop that for me?

17 MS HAPPER: Yes. It's what keeps us awake at night. That's
18 what keeps me awake at night, is what we don't know. In
19 an ideal world we would be in all services regularly,
20 frequently and we would also be able to take enough time
21 to make sure that the inspection takes the time it needs
22 to take and that we would be able to follow up, so
23 instead of just keeping on going, that where we have
24 concerns, we are back and following up and so on.

25 We have moved from a position perhaps --

1 I'm overstating this, but in the past where we were very
2 driven by inspection targets, in, out, get the plan
3 covered, tick them all off, get them done. It was all
4 for good reasons, but we have moved from that and
5 I think it would be fair to say that inspectors felt
6 pressured that they wouldn't be able to go back or do
7 more work if they felt it needed it, that inspections
8 had to take a certain time and no longer.

9 So we have moved from that. At the other end of
10 that continuum you would have: it doesn't matter how
11 long it takes, it is what it takes and it doesn't
12 matter, but then you have a whole lot building up that
13 you have not been to see. We are not at that far end,
14 and we don't want to be there, but we have to manage
15 that tension all the time. Are we doing enough with the
16 services where we know we have concerns, but at the same
17 time making sure that we're not missing things about
18 where we haven't been?

19 And we'll never get away from the fact that we will
20 find things where we go into services. I don't want it
21 to be understood that I'm saying, "If only we had the
22 right computer system we wouldn't ever have to be in
23 services". We will always want to have a presence, we
24 will always want to be there. But that's why we are
25 putting so much stock on a better intelligence model of

1 really understanding where the risks might be, about
2 improving our sources of intelligence, making sure we
3 have a better profile, that people understand what it
4 is, how to work with us, what we might do, what we can
5 do and that they feel that we're approachable and
6 trustworthy, because that's the way that we think we'll
7 be able to sleep at night, by making sure that we get to
8 those services that we really need to spend the time in,
9 where we need to say, "Yeah, we have inspectors who are
10 in there", really building a rapport with young people
11 and with staff, understanding what's going on, seeing
12 it, observing it and not feeling so pressured, where we
13 feel that staff have enough time to say, "Actually,
14 I'm going to go away for a couple of days and really
15 think this through and talk to other staff about it to
16 make sure that I've got not just the conclusions but the
17 line of enquiry, what do we need to find out more about,
18 what do we need to probe"?

19 I don't want anybody in Andy's team, or your
20 colleagues' teams, to feel unable to turn over any
21 stones that need to be turned over. But there's a cost
22 to that. It's about balance.

23 Q. I was about to say, the issue of resources comes to
24 mind.

25 A. Yes.

1 Q. Then finally in the report, 15.2.3, you make some
2 comments over enforcement, can you just develop what you
3 are seeking to put forward there?

4 A. We probably have taken more enforcement action in the
5 last 12 to 18 months, I would say, in Children and Young
6 People's Services than we have taken before. We have
7 significantly improved our enforcement processes to make
8 that work smoothly and well, but there are some
9 frustrations with that as well.

10 I think we touched on this slightly yesterday,
11 perhaps early in the day, that it's a high bar to close
12 a service, as it should be. The implications of closing
13 a service are enormous, not least for the young people
14 who are actually living in the service. It is their
15 home and so we want to be very thoughtful about actions
16 that we take and make sure that we don't have any
17 unintended adverse consequences. But when we are at
18 that and we do feel that we need to be moving down
19 a service closure, it's difficult. It can be time
20 consuming and there is quite a long timeline really to
21 get to that.

22 In the meantime we're kind of caught between a rock
23 and a hard place often, because we're saying we can't
24 leave something in a very poor state while we are then
25 going through a legal process.

1 Q. That's because that puts children at risk?

2 A. It puts children at risk. It certainly gives them
3 suboptimal care, so we want to do everything we can to
4 help the provider improve what it is they're doing, but
5 that means that then quality goes up and then that makes
6 it harder to prove the case.

7 We have already mentioned earlier on the importance
8 of not getting improvements that go up and down. We do
9 have services that bubble along at adequate. Never get
10 much better. Might tip into good and then down to
11 adequate again. We have talked about unsatisfactory and
12 weak, but adequate is not okay. Our description of
13 adequate, our descriptor for that, it says it's not
14 a long-term position for children to be living in
15 services that are adequate, they need to be better than
16 adequate.

17 But driving that forward and making sure that
18 providers of services don't just get to an acceptable
19 standard and then attention is off it and then slips
20 back again. That's where we need to be, is really
21 making sure that on those services we take decisive
22 action, that either they get better and stay better or
23 they have to close. That legally is really tricky.

24 Q. That's why you say, at the very end of the report, and
25 I'll just quote this to have it in the transcript:

1 "Reviewing the criteria, thresholds and formal
2 processes for implementing these powers would provide
3 an opportunity to significantly improve the
4 effectiveness and speed of taking action against the
5 poorest performing services, where unsafe care is posing
6 unacceptable risks to children and young people."

7 A. That's correct.

8 Q. That summarises your position?

9 A. That's correct.

10 MR MACAULAY: That indeed is where we come to the end of
11 your report.

12 Thank you both very much indeed for the significant
13 contribution you have made through the reports that you
14 have provided, this report and in your evidence.

15 One final thought to leave you with. Next year we
16 will be looking at places like former List D schools,
17 residential schools and secure care. It may be that
18 regulators, speaking in general terms, may be invited
19 back if issues arise that may require some input from
20 regulators, so I leave you with that final thought.

21 A. Can I thank you for the opportunity to speak to you.

22 LADY SMITH: I promise that was a thought, not a threat. If
23 we have to call you back you will be welcomed warmly, as
24 I hope you feel you have been yesterday and today,
25 because it's been such value to me to hear from you

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

PAGE

Helen Happer (continued)1
Andrew Sloan (continued)1
Questions from Mr MacAulay (continued)1

