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27 January 2022

[REDACTED]
Investigation Lawyer
Scottish Child Abuse Inquiry
PO Box 24202, Edinburgh, EH3 1JN

Dear Ms [REDACTED]

FOSTER CARE - SECTION 21 NOTICE- A-D REPORT- FOLLOW-UP QUERIES

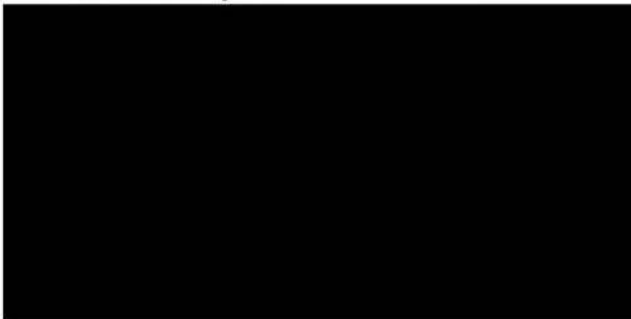
I refer to your email of 20th December 2021 to the Council's Chief Executive, Pippa Milne, in connection with our response of 27th January 2020 to the Section 21 notice of 27 August 2019. I can confirm Ms Milne has requested that I write to you on her behalf.

Please find attached as requested our answers in the form of an Addendum to the Part A –D response as requested.

I would be grateful if you could advise if this is sufficient but please do not hesitate to contact my office if you require additional information or clarification.

I would advise that our Chief Social work Officer, David Gibson is able to speak to the A-D response at hearings.

Yours sincerely



Addendum to Argyll and Bute Council's response to SCAI S21 notice (Fostering) of 27th August 2019 (Sections A-D)

The following information is provided as an addendum to the Argyll and Bute Council's response to Part A-D of the Section 21 notice dated 27th August 2019.

This addendum addresses the queries raised in the e-mail of [REDACTED] of the Scottish Child Abuse Inquiry dated 20th December 2021.

The queries raised by [REDACTED] are shown in italics for ease of reference.

1. *In 2.2(f) for the period 1975-1996 the answer states 'as vi above'. There is no subsection vi as part of this question, so it is unclear what is being referred to here. Please clarify the position accordingly.*

In 2.2(f) for the period 1975-1996 the answer 'as vi above' should read; As 2.2 (e) above

2. *In 4.7i subsections (i)&(j) for the period 1996 onwards, the answer notes 'see comment at 6 above'. There is no subsection 6 as part of this question, so could you please clarify what subsection/other answer we are being directed to here?*

In 4.7i subsections (i)&(j) for the period 1996 onwards the response should read; The changes have been in terms of implementing the Model Complaints Handling Procedures (MCHP) approved by the Scottish Public Services Ombudsman (SPSO) who required all local authorities to adopt the MCHP. The earlier procedures had 3 stages with the potential for a review by a Complaints Review Committee (CRC) made up of Councillors before the complainer could take it to the SPSO. The most recent procedure has 2 stages and then the complainer can take it to the SPSO, the CRC part of the procedure has been taken out.

3. *In 4.8i subsection (m) the answer for periods 1930-1975 & 1975-1996 is 'see subsequent periods', but the period 1996 onwards is blank. In addition, subsection (n) is blank for all time periods. Please confirm the position here as regards subsections (m)&(n).*

4.8.i subsections (m)&(n) should read as; No Difference so no additional explanation.

4. *As per above, the same situation has occurred in relation to 4.8ii subsections (h)&(i); reference is made to subsequent periods and then the answer is blank. Please confirm the position as regards subsections (h)&(i) for all time*

4.8.ii subsections (h)&(i) for all time periods should read as; No Difference so no explanation required.

5. *4.9i subsection (n) the answer for periods 1930-1975 & 1975-1996 is 'see subsequent periods', but the period 1996 onwards is blank. In addition, subsection (o) is blank for all time periods. Please confirm the position here as regards subsections (n)&(o). In 4.9i subsections (b) and (g)-(i) for time period 1975-1996 are blank.*

The response should read as follows;

4.9.i subsection (b) for the period 1975 -96 should read as; as 4.9.i(a)

4.9.i subsection (g) for the period 1975 -96 should read as; Policies no longer in place

4.9.i subsection (h) for the period 1975 -96 should read as; as 4.9.i(f)

4.9.i subsection (i) for the period 1975 -96 should read as; This information is not held by Argyll and Bute Council

4.9i subsection (n) for the period from 1996 – should read as; Retention policy continues to follow national guidance

4.9.i subsection (o) for all time periods should read as "no details required"

6. *In 4.9ii subsections (b)-(o) for the period 1975-1996, and also in subsection (c) parts i-viii and subsection (e) for the period 1996 onwards, the answer notes 'see 5.4.ii.a'. We are unable to locate or identify this section, so please could you clarify what we are being directed to in answer here*

All these sections, identified in points 6 above, should read as " see 4.9.ii(a)"

7. *In 4.9ii subsections (b)-(o) for the period 1975-1996, and also in subsection (c) parts i-viii and subsection (e) for the period 1996 onwards, the answer notes 'see 5.4.ii.a'.*

All these sections identified in points 7 above should read as " see 4.9.ii(a)"

8. *In 4.9ii subsections (p)-(r) for the period 1975-1996 have been left blank, for the period 1930-1975 subsection (q) has been left blank and for the period 1996 onwards, subsections (q) and (r) have been left blank. Please confirm the position here as regards each of these subsections*

For all the periods, each of the subsections identified in this point should read as;

Present		1930-75	1975-96	1996>
p)	With reference to the present position, are the answers to any of the above questions different?	See subsequent periods	See subsequent periods	No
q)	If so, please give details			
r)	Please provide details of the types of any records currently held relating to the children in foster care in respect of the following:			
	i.	Children in foster care	Unable to identify specific children's records for this period beyond Children's Officer Reports from 1950	Individual children's records

	ii.	Staff responsibilities foster care with for	Some mention names within Children's Committee and Children's Officer Reports from 1950	Argyll and Bute Council do not hold any staff records for this period	Staff names are available for this period; Some employment records will be available and some have been deleted where staff have left the employment of Argyll and Bute Council
	iii.	Foster carers	Some mention of some carers names within Children's Committee and Children's Officer Reports 9 from 1950	Argyll and Bute Council do not hold any staff records for this period	Information in Minutes of Approval and Matching Panel and carers records
	iv.	Complaints	No records identified -	Argyll and Bute Council do not hold any staff records for this period	Information held in carers and children's records.
	v.	Investigations (both internal and external)	No records identified -	Argyll and Bute Council do not hold any staff records for this period	Information held in carers and children's records.
	vi.	responding to requests from former children in foster care for information/records	No records identified	Argyll and Bute Council do not hold any staff records for this period	Subject access requests held centrally

9. *In question 2.1(c) for the time period 1975-1996 there is a direction to Appendix F for further information, however this document was not submitted as part of the response.*

This documentation is not held by Argyll and Bute Council as it relates to the period when Strathclyde Regional Council was the relevant body. Strathclyde Regional Council records are held by Glasgow City Archive. Dr Irene O'Brien, Glasgow City Archives, confirms that Glasgow City Council has previously supplied reports (with exception of the fostering-specific documents) on behalf of GCC and all the other ex-SRC local authorities. She has been informed that the Inquiry team is currently investigating their location. Dr O'Brien has advised us that she has agreed to send the fostering-specific items as a matter of urgency. As before, she does this on behalf of GCC and all the other ex-SRC local authorities.

10. *In question 2.1(j) for the time period 1975-1996 there is a direction to Appendix E for further information, however this document was not submitted as part of the response.*

This documentation is not held by Argyll and Bute Council as it relates to the period when Strathclyde Regional Council was the relevant body. Strathclyde Regional Council records are held by Glasgow City Archive. Dr Irene O'Brien, Glasgow City Archives, confirms that Glasgow City Council has previously supplied reports (with exception of the fostering-specific documents) on behalf of GCC and all the other ex-SRC local authorities. She has been informed that the Inquiry team is currently investigating their location. Dr O'Brien has agreed to send the fostering-specific items as a matter of urgency. As before, she does this on behalf of GCC and all the other ex-SRC local authorities.

11. *Please could you explain the case file review methodology which was employed by Argyll and Bute Council in preparing the A-D response? For example, it would be helpful if you could set out how many files were reviewed, what years did these date from and to, were both children's files and foster carer files examined, or was reading limited to only one category and if so why?*

The Argyll and Bute Council case file review methodology, employed in preparing the A-D response to the section 21 Notice is as detailed below.

Different methodology was used for the different time periods due to the way information was recorded during the relevant periods by the relevant authority and therefore the response is split into 3 sections:

For period 1930 -1975

Argyllshire County Council was the relevant body. The Council's independent archive service for records of Argyllshire County Council is provided by Live Argyll.

The methodology applied for this period was as follows.

- The Live Argyll Archivist was requested to identify any case records or other records from the Argyllshire County Council archive for the period 1930 – 1975 that would provide the information requested.
- The archive service advised that they could identify no case records for children fostered or boarded out by Argyllshire County Council or case records for foster carers for the period 1930 to 1975..
- For the period 1930 to 1950 the archive service advised that they were unable to identify any other Argyllshire County Council records in relation to children fostered or boarded out, or of their foster carers.

- The archive service located archive minutes of the Argyllshire County Council Children's Committee for the period 1950 to 1975. These records included reports from the Children's Officer. The reports from the Children's Officer included details of all the children in care at the time of the report – including boarded out children, along with details of who they were fostered by boarded out with. These reports also included a brief commentary of the child's situation and circumstances, significant events as well as visits by the Children's Officer.
- All Children's Committee minutes and the associated report from the Children's Officer were read as the best available information, in preparation of the Argyll and Bute Council's response for the period from 1930 – 1975

For the period 1975-1996

- Argyll and Bute Council do not hold records in respect of foster carers, foster care services or children in foster care of the period 1975 -96.
- Strathclyde Regional Council were the relevant body during this period .The Strathclyde Regional Council archive is held by the Glasgow City Archive. The Glasgow City Archive were contacted by Argyll and Bute Council and requested to provide a response in respect of all questions within sections A-D based on the information they hold.
- The information provided by the Glasgow City Archive was used to complete the response to all sections for the period 1975-96.

For the period from 1996

Argyll and Bute Council are the relevant body.

The following records were reviewed:

- All foster carer files were reviewed. The reason for this approach was that individual foster carer records include details of the consideration and investigation of any allegations or complaints against carers.
- The review of records included reading both the archive records of all foster carers approved by Argyll and Bute Council during the period from 1996 and the records of all current foster carers to identify any allegations or complaints. Children's records were then reviewed where additional information was required to enable the response to be completed.
- All minutes of Fostering Panels (known as Approval and Matching Panel)for the period from 1996 were also read as these assisted in identifying all previous Argyll and Bute foster carers.
- The minutes of the Panel include the formal review of foster carers, as required by Regulation 10 of The Fostering of Children (Scotland) Regulations 1996 and latterly Regulation 25 of The Looked After Children(Scotland) Regulations 2009, at which consideration was given to any complaints or investigations.
- The Fostering Panel is also required, in terms of the 1996 and 2009 Regulations, to consider any foster carers who withdrew from fostering. The information provided to Panel included the reasons for the withdrawal. This information includes whether there were complaints or allegations against the foster carer's.
- In addition the Fostering Panel has responsibility for making recommendations regarding the termination of approval of foster carers in terms of Regulation 10 of the 1996 Regulations and Regulation 25 of the 2009 Regulations, should they be deemed no longer suitable to continue as foster carers.

12. *In response to question 3.1(a) regarding acknowledgement of abuse, it is noted that for the period 1975-1996 inquiries identified two SRC foster carers living in Argyll who were investigated and subsequently convicted of sexual abuse. It is unclear from the answer provided whether there were any changes identified by the local authority as a result of these convictions. Could you please explain what steps were taken as a result of these two convictions and if none, please explain why this was the case?*

As a result of the multi agency investigation and subsequent convictions of these carers Argyll and Bute Council reviewed its approach to the assessment, support and supervision of foster carers and established a specialist Family Placement Team, independent of the child's social worker and child's social work team, with its own team manager and qualified social workers, to assess, supervise and support foster carers. Prior to the establishment of the Family Placement Team foster carers could be supervised by a social worker who was also the social worker for the child.

13. *In response to question 3.1(b) regarding assessment of extent and scale of abuse, it is said that "without the specific names of children" you are unable to form a view in relation to this question. Given that you were able to provide a response to subsection (a) and gave details of allegations and complaints in response to Part D (5.1 and following), please can you explain why you say in answer to 3.1(b) that you do not have names of children and explain how this impacts on your ability to provide a response.*

We welcome the opportunity to provide clarification.

Based on the information available to us, as detailed in S5.9, we do not believe that there has been extensive or systematic abuse of children fostered or Boarded out by Argyll and Bute Council or Argyllshire County Council.

For the period prior to 1976 where Argyllshire County Council were the responsible authority, as detailed in our response number 11 above, records are limited and our archive service has not identified relevant records prior to 1950. Having carefully considered the information available to us we have only identified one case of abuse; as identified in this addendum.

Research, knowledge and understanding of abuse and multiagency practice in the investigation and response to allegations of abuse by all children, including those in foster care or boarded out, has developed very significantly since 1930. It appears to us as likely that there were allegations of abuse of boarded out or fostered children during this period that were not recorded in the information available to us. Careful consideration of the information available to us does not indicate that there was extensive or systematic abuse of children in foster care or boarded out and we are unable to form a definitive view about the nature and extent of abuse during this period.

For the period 1975 to 1996, when Strathclyde Regional Council were the responsible authority, we have identified two very significant investigations of allegations of sexual abuse by foster carers. As wider records for this period are held by Glasgow City Archive, we are unable to form a view about the nature and extent of abuse across the Strathclyde region or against children from across Strathclyde Regional Council area who were fostered within the current Argyll and Bute Council area.

For the period from 1996, when Argyll and Bute Council are the responsible authority, we identified nine complaints' all of which we investigated. On the basis of this information there does not appear to have been physical or sexual abuse of fostered children by foster carers during this period.

We understand that the Inquiry may have received information from individuals who were fostered or boarded out in the Argyll and Bute area, and consideration of this information may enable us to identify additional information which was not identified in preparation of our response and this information may assist us to form a view on the nature and extent of any abuse of children in foster care or boarded out within Argyllshire County prior to 1976 or fostered within the current Argyll and Bute Council area by Strathclyde Regional Council.

14. *In response to questions 5.2(a) and (b) regarding the assessment of scale and extent of abuse of children in foster care, can you advise whether you looked at children's records in order to answer these questions? It is noted that for the period 1996 onwards, reference is only made to retained carers records and minutes of Approval and Matching Panels. If children's records were not considered, please can you advise why not? It is noted that pre-1975, only minutes and reports were looked at in answering this question and no files were looked at. Please can you advise why this is the case?*

We welcome the opportunity to clarify our response in connection with these points and note that this has in part been addressed in point 11 and response to point 14 should be read alongside our response to point 11.

Foster carer records were the primary documents considered for the period post 1996. These records include any details of complaints or allegations against carers and the outcome of any investigation. Children records were then considered where additional information was required to enable the response to be completed.

Our independent archive service Live Argyll has advised that they do not hold Argyllshire County Council children's files prior to 1975 and nor do they hold records of Foster Carers. For the period from 1950 the archive service identified records of the Argyllshire County Council Children's Committee which received reports from the Children's Officer at each of its meetings. These reports included details of all the children in care at the time of the report – including boarded out children and a brief commentary of their situation, events, their circumstances and visits by the Children's Officer as well as information on policy or legislative changes and changes in national guidance considered by the Committee. The minutes of the Children's Committee meetings and the associated reports of the Children's Officer were all read in preparation of our response.

15. *It is a matter of public record that a boarded-out Argyllshire boy went missing in 1955 and whose remains were found a year later in Glen Masson. As well as considerable publicity, a report on the boy's remains was published in the British Medical Journal in 1958. We note that you do not refer to this in your response – could you please explain why this is?*

We welcome the opportunity to clarify our response and we provide the following information which may be of assistance to the Inquiry. The child you refer to is Dugald Johnstone. As detailed in our response there was no indication in the minutes of the Children's Committee or the reports of the Children's Officer that his going missing in 1955, or his subsequent tragic death, was related to abuse by his foster carer and on that basis it would not have been appropriate to include his details within the response.

Following you bringing this specific case to our attention our independent archive service, Live Argyll, has been able to undertake a detailed search in respect of records relating to Dugald Johnstone. Through this they have been able to identify some Argyllshire County Council records in connection with Dugald, his disappearance and his death. These records are not a child's file and were only identified through a detailed search of any reference to Dugald Johnstone. These council records give no suggestion that his disappearance or death were a result of abuse.

It is our understanding that Dugald's disappearance and death was fully investigated at the time by the Procurator Fiscal, the Child Care Inspectorate of the Scottish Home Department and we understand that they made no criticism of the actions of the County Council. The Joint Undersecretary of State for Scotland, Mr Nail MacPherson, in response to questions in the House of Commons on the 22 April 1958, stated that "I am sure that no blame for Dugald's disappearance and death can be laid at the door of the County Council. After very careful consideration of all aspects of the matter, I am quite certain that the action that was taken was in the best interests of the children." Hansard gives a useful summary of the Government's view.

<https://api.parliament.uk/historic-hansard/commons/1958/apr/22/dugald-johnstone>

There was indeed considerable media attention and public concern at the time; both in connection with his disappearance and the subsequent finding of his remains. There are 3 particular episodes raised as concerns at the time that could have been indicative of Dugald having been abused.

The first relates to Dougal's removal from foster carers; Mr and Mrs EKK-EKM Isle of Mull, in 1950. We have attached the report from the Children's Officer outlining the circumstances of his removal (CA3-72-14(147/148)). There is no allegation that Dugald was abused though clearly concerns were identified about the quality of care and that in the view of the Children's Officer he would do better elsewhere. These actions appear to be a direct result of implementing new requirements under the Children Act 1948.

The second related to Dugald's stay with foster carers Mr and Mrs EKN-EKO, farmers from Kintyre, where he was placed between [REDACTED] 1950 and [REDACTED] 1951, following his removal from the EKK-EKM and in connection with reports of his going missing from their care.

We have identified a report confirming that Dugald had gone missing from these carers and this was followed up by the Children's Officer in [REDACTED] 1951. Dugald made allegations to the Children's Officer that he was assaulted by Mr EKN this included Dugald having a mark on his scalp caused, he alleged, by being hit with a stob (fence post), he also alleged being hit with a stick by Mr EKN and of being scared to return to the foster carers. Dugald was taken to hospital, medical advice was sought and the allegations referred to the police.

As a direct result of these disclosures Dugald, and his brother, were removed from the foster carers to a children's home (Tollard House near Dunoon). We are unable to confirm the outcome of the police investigation and there is no indication that Mr and Mrs EKN-EK were used again as foster parents.

We have attached 2 reports (and one from the Children's Officer - CA-3-72-15 and the other the Medical Superintendent , Alan Russell, - CA3-72-14(144 /145)), these confirm that these allegations were believed as credible and provides further information on how they were responded to.

The third area of concerns related to Dugald's disappearance a few weeks after moving from Tollard House, where he had lived for the preceding 4 years, to a group foster home with Mrs EKP Dunoon. While the exact circumstances of why Dugald went missing and of

how he died in 1955 can probably never be known, there is no indication, from the records available to us, that this was the result of abuse. As indicated previously we understand that the matter was fully investigated by both the Procurator Fiscal and the Child Care Inspectorate of the Scottish Home Department and scrutinised by the Scottish Home Office. Copy of a letter is attached CA3-72(66/67) confirming the Argyllshire County Council's view.

On the basis of this information we submit the following addendum to section 5.8 in respect of the period 1930 – 1975

Specific Complaints

Past:	1930-75	
a)	How many specific complaints of abuse of children of abuse of children in foster care have been made to the local authority?	We have not identified records of reports of abuse of children in foster care. Records – for this period are limited and we hold no records of children boarded out of fostered prior to 1950. Further investigations have identified one allegation of abuse.

For each specific complaint, please answer the following:

b)	Who made the complaint?	Dugald Johnston
c)	When was the complaint made?	May 1951
d)	Against whom was the complaint made?	Mr EKN - foster carer
e)	What was the nature of the complaint?	Dugald alleged that Mr EKN would give him a row – which he felt he deserved, had struck him on the head with a “wooden stob” (understood to be a fencepost) leaving a mark and had struck him with a wooden stick on another occasion. Dugald reported feeling terrified of Mr EKN
f)	When/over what period was the abuse alleged to have taken place?	Exact period is unclear and Dugald had been living with Mr and Mrs EKN-EK for the preceding 7 months

g)	What was the local authority's process and approach in dealing with the complaint?	Matter was investigated by the Children's Officer, medical advice sought and a referral/complaint made to the Police. The allegation was accepted by professionals and Dugald removed from Mr and Mrs EKN-EKO care
h)	What was the local authority's process and approach for investigating the complaint?	Dugald was spoken to by the Children's Officer in connection with his going missing and she followed up questions about observed marks which enabled Dugald to disclose abuse, medical was advice sought , with Dugald seen by two medical professionals and the Police advised; who subsequently took a statement.
l)	What was the outcome of the complaint following that investigation?	Douglas was removed from the Foster Carers, carers appear not to have been used again , outcome of police investigation not recorded
j)	Did the local authority provide a specific response to the complaint?	Unclear, records indicate that Dugald's allegations were accepted and acted on at the time
k)	If so, what was the form of response e.g. apology, redress, pastoral response or any other type of response?	None recorded
l)	If there was no response, why not?	No record available of what response was given
m)	Was the information/content of the complaint passed to police?	Yes
n)	If not, why not?	Information was provided to the police

16. Finally, please can you advise who at Argyll & Bute Council is able to speak to the A-D response at hearings-

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