

**Director: Craig McArthur****Head of Children's Health, Care and Justice Services: Marion MacAulay**

Direct Dial: [REDACTED]

Contact: Marion MacAulay

Email: [REDACTED]

Our Ref – **S21 Foster Care Inquiry**Your Ref: **INQ.Section 21 Notices.579**

27 January 2023

FAO [REDACTED]
Scottish Child Abuse Inquiry
PO Box 24202
Edinburgh
EH3 1JN**Sent by Email only**

Dear [REDACTED]

Section 21 Notice: INQ.Section 21 Notices.579

I refer to your correspondence dated 25 November 2022 enclosing a notice issued under section 21 of the Inquiries Act 2005, which asks for a report giving further comment on our 'Part B' response to the section 21 notice dated 27 August 2019.

As explained in the Appendix below, we are not submitting a revised version of our Part B response, but have provided some reflections on the previous response in light of the evidence led at the Inquiry.

I trust that this is of assistance to you and we look forward with interest to reading Lady Smith's findings.

Yours sincerely,

Marion MacAulay
Head of Children's Health, Care & Justice Services/
Chief Social Work Officer

APPENDIX

Response to evidence led in the course of the Foster Care and Boarding Out Case Study

- 1. In the light of the evidence, what reflections do you have on your Part B response to the Inquiry's Section 21 notice dated 27th August 2019? Do you wish to submit a revised version of Part B of your response? If so, please do so in a separate addendum.**

On receipt of the Inquiry's Section 21 notice dated 25 November 2022, detailed consideration was given to the evidence presented to the Inquiry by 'Alex', 'Callum' and Mr Richard Tracey. Although we do not intend to submit a revised version of our previous Part B response, we would like to make the following reflections on our previous response.

As the Chief Social Work Officer for East Ayrshire Council, I wish to thank the three witnesses Richard, 'Alex' and 'Callum' for sharing their stories and I take this opportunity to express my sincere apologies on behalf of the Council to each person who suffered abuse whilst in foster care in East Ayrshire. Abuse suffered in childhood can have a profound impact into adulthood and we acknowledge that such trauma can continue to impact on daily life. The Inquiry has provided important lessons to myself and my colleagues throughout the service, and reading the evidence of the witnesses has further compounded the need for continued learning to ensure that children in foster care are safe, secure and given the voice they deserve now and in the future.

Moving on to our reflections on our Part B response, Section 3.1 of Part B asked the Council if it accepted that any children cared for in foster care between the relevant dates were abused. Based upon the case file review which was carried out to inform the response to the Section 21 notice, we acknowledged that children within foster care had suffered abuse. We further acknowledged that it was likely that other children, whose files had not been reviewed, were likely to have suffered varying forms of abuse whilst in foster care. The evidence provided to the Inquiry proves the reality of this statement. It is clear that there were children wider than those uncovered within our initial case file audit who suffered abuse whilst in foster care, and that in some cases the safeguarding systems that were meant to protect them from such abuse, failed them.

We further stated within 3.1 of our Part B response that 'In some of these cases, it is acknowledged that there is a possibility that children were not given the attention and voice, and ultimately recourse to justice that they deserved'. The evidence of 'Alex', 'Callum' and Richard make this point all the more significant. Their evidence has highlighted that, in the past, there were instances where children had no voice within the situations they became inadvertently involved in, including being placed in foster care. Further, it is clear that in some instances, when children did speak up, they were not listened to or their claims were not acted upon. Although current practice places huge significance on the voice of the child, we would like to acknowledge that the work of the Inquiry and the learning it has provided to the Council, has re-emphasised the importance of, among other things, listening to children and considering their care from their own perspective now and in the future. The Council re-commits to placing the voice and rights of the child at the heart of our care, practice and process.

On reflection of our response to Part B 3.2, acknowledgement of systemic failure, we

would qualify our original submission as follows. We previously stated that in some individual cases, systems and processes were not appropriately followed but that systemic failure was not evidenced as being the cause of failures to protect children in foster care between the Inquiry dates. We further highlighted that in some cases, proper procedure was followed, whilst acknowledging that in some instances, the quality of assessment, planning and case recording for children should have been better. On reflection of this response, and in light of the evidence, we accept with deep sorrow that in the instances of 'Alex', 'Callum' and Richard, those children we have referenced in our case file audit, and undoubtedly in other instances where children were placed by the Council into foster care, the systems and procedures in place to protect them, failed. This is evidenced where systems were in place but were not always adhered to, for example, where children made disclosures which were not properly followed up or where the training and vetting of foster carers was below the standard we expect today. In other instances systems failed where there was a lack of system that should have been in place to safeguard against abuse, for example, unannounced visits or discussions with the child one on one in confidence, without the presence of foster carers. It is acknowledged that the systems and practices of the past required strengthening and these previous failings led to missed opportunities to prevent abuse or identify and respond to abuse in some situations.

Regarding Part B 3.3 acknowledgement of failures/deficiencies, our previous Part B response remains pertinent. We acknowledged that on some occasions the investigation into reported abuse fell short of the standards which would be expected, and follow up on actions identified to assist either the child or the foster carers were not either concluded or adequately recorded. We further acknowledged gaps in files including a lack of multi-agency involvement where it would have been appropriate, failure to interview other witnesses or victims of alleged abuse in placements, inappropriate questioning of the child alleging abuse, limited evidence of appropriate safety planning, and finally, identifying that work required to be carried out with foster carers, but no evidence that this work was concluded within files. Again, these failures were highlighted by the evidence led at the Inquiry.

2. What lessons do you suggest should be learned from the evidence?

The testimony provided by Alex, Callum and Richard provide a number of practice themes that are invaluable to learning and development for children's services within East Ayrshire. There is a clear, consistent and poignant thread throughout all the evidence that demonstrates the need for children and young people to have committed and trusting adults in their life's, who they can regularly talk to about their relationships and care experiences. Children's voices must be heard by the professionals and supports in place to safeguard them. There is an additional need for children and young people to not only trust the professionals involved with them, but also have confidence that the information which they share will be responded to appropriately and taken seriously. It is evident that this was not the experience of Alex, Callum and Richard and sadly, if they had been afforded such opportunities, their childhoods would not have been impacted by such adverse events. Our response in Part B 3.4 takes account of some of this learning within the changes to social work practice in East Ayrshire and we have provided further analysis within 'Q3' for changes and current practice that seeks to take account of this learning.

The emotive stories provided by Alex, Callum and Richard highlight that the assessment and approval of foster carers, and indeed kinship carers and adopters, requires to be of the highest standard and be developed in accordance with statutory

requirements and national guidance. Whilst not fully eliminating all risk, assessments, including checks and references, will mitigate the potential for children and young people to experience the same issues from foster carers, as was presented in the evidence to the inquiry. As well as having vigorous quality assurance processes in place, every assessment of foster carers and adopters must be scrutinised by an independently chaired panel which has a key quality assurance function, prior to the recommendation going to the Agency Decision Maker for approval. The Council's use of nationally recognised assessment frameworks and approval mechanisms should help to ensure that there are quality assurance mechanisms in place around assessment and approval. In the same way we need to recognise that like everyone, the circumstances, needs and capacities of foster carers change over time. As such there is a need for regular supervision and review of a foster carers caring journey, learning and development. The requirements of current fostering agencies are beneficial in helping to provide assurance that the likelihood of children suffering similar experiences, as those who gave evidence to the inquiry, is significantly reduced due to the level of scrutiny and review. There is a specific piece of evidence that relates to adoption within the statement of Alex. The Council acknowledges a specific need to expedite adoption support plans and to review these in line with the changing needs of the adopters or the child. The Corporate Parenting team within Children & Families has identified this within its most recent Best Value Service Review as an area that it is seeking to develop and embed quality assurance processes.

Local policies and procedures, in association with national guidance, in relation to assessment, supervision and review of foster carers now reflects learning from historical episodes of abuse and harm in fostering households which correlates with the learning identified from the current enquiry. Some examples of how this learning is borne out in practice, directly related to the evidence provided by Alex, Callum and Richard is outlined below in Q3. The Council seeks to work in partnership with their foster carers, there is also a clear professional framework for the relationship between the foster carers and the agency/supervising social worker. The evidence from Alex, Callum and Richard highlights a theme of blurred boundaries and supervision of carers that appears to have been over-familiar and blind to the historical evidence that harm and abuse does take place in foster care. Clear understanding is required on the part of the foster carers and supervising social workers of not only the 'support' aspect of the relationship, but also the 'supervisory' element, demonstrated through unannounced visits, regular supervision which records deficits and training needs for carers, and indeed regular triangulation of information received from foster carers via regular interaction by the child's social worker, the supervising foster carer social worker and members of the Team Around the Child. The lead professional social worker must have a clear practice framework for supporting a child, with love, care and kindness critical to this relationship, whilst promoting their rights and demonstrating professional curiosity with their care. As with the role of the 'supervising' social worker, the assessment and plan of a child must have regular reviews, with effective quality assurance measures to ensure that not only children's rights are being promoted, but their wellbeing is also safeguarded. Sadly it is evident from Alex, Callum and Richard testimony that there was a lack of assessment and planning of their needs and safeguards were not in place to promote their rights. A very tangible evidence of the scenarios outlined by Alex and Richard relate to the number of children in placement. The Council notes the change in legislation, most notably Regulation 27A of the Looked After (Scotland) Regulations 2009 which puts a specific limit on the number of children in a fostering household, acknowledging the need levels for care experienced by children and the capacity of foster carers to meet those needs. The Council has not sought to exceed these limits on a regular basis, and has only done so when there is

a clear benefit to the welfare of the child or in instances where it would allow brothers and sisters to live together.

There is evidence to suggest that within the midst of allegations of abuse and harm, social work did not promote the principles of multi-agency partnership working to protect children in their care. For instance, regular health assessment and examination, or indeed the triggering of a medical examination upon child protection concerns, may have unearthed evidence of abuse and harm at an earlier stage given what is alleged. From the evidence given there is a clear need to remind ourselves of the need to take a multi-agency Getting it Right for Every Child approach to care and protection for the children within our care.

In the testimony of Callum he spoke about the distress and upset he experienced in being denied his moral right for a relationship with his brother, highlighting disingenuous explanations provided to him by his social worker on why this could not be supported throughout his time in care. Such practice is incredibly difficult to defend and thankfully not only has practice to support family connections and relationships improved, Part 13 of the Children (Scotland) Act 2020 and the Looked After Children (Scotland) Amendment Regulations 2021 now compels local authorities to ensure siblings are supported to stay together, where appropriate. Where it may not have been appropriate for Callum and his brother to live together, steps should have been taken to help them stay in regular touch with each other and to nurture their relationship. The new legislation also means changes to Children's Hearings procedures. Brothers and sisters now have the right to participate, with support from advocacy services, in Children's Hearings where contact with their siblings is being considered. We know from the Independent Care Review (2020) that care experienced children and young people told us that the relationships with their brothers and sisters is vital to their sense of belonging, identity and wellbeing.

3. In the light of the evidence, what changes do you suggest should be made to protect children from abuse in foster care?

Following on from our previous Part B response, specifically part 3.4, the Council recognised the need to blend both the learning from this inquiry investigation, with the principles identified in the 2020 Independent Care Review, through a review of our local guidance and procedures, helping shape, develop and improve practice for children in our care. We acknowledged that significant improvement work had been progressed by the Council, shaped by both national policy and legislation. Critical to the improvement in practice is to ensure the voice of the child is both heard and acted upon. To support this it is essential that there is a delineation between the critical role the social worker for the child has for assessment, planning and review and the linked social worker for the carer(s). This allows a visual and understandable delineation for the child to be able to share their views, including concerns with a known professional who has specific responsibility for them and their care plan.

It is critical that the Council promotes the views of the child throughout their care and that this is scrutinised by an independent chair for every review of a child's plan, every foster carer review, and indeed all other Team Around the Child planning reviews. Additionally there are a number of other mechanisms through which children and young people who are looked after can communicate, in addition to the relationship they will have with their lead professional. All care experienced children in East Ayrshire have access to independent advocacy services commissioned via 'Who Cares? Scotland'. Children's services have also invested in 'participation leaders' who

have a specific remit to engage and hear the voice of care experienced children. The Council has also recognised the need to provide a digital space and medium through which some children may prefer to communicate. This has led to the 'Mind of My Own' app being rolled out across all services to allow children to communicate with trusted adults. The Council has also been one of the first local authorities to undertake a 'Brightspots' survey in Scotland. The focus of the survey is to collate the views and opinions of 'looked after children' with a view to taking learning from that survey to inform how we develop practice in meeting their needs. Like every local authority in Scotland, East Ayrshire Council is on a learning journey to embed the learning from the Independent Care Review to keep 'The Promise'. It is imperative that both social work and children's services not only hear the 'voice' of care experienced children but ensure their rights are respected, protected and fulfilled in the care planning.

The Council's fostering service recognises the need for good planning when a child is placed with foster carers. Our fostering service must place a high level of importance on gaining good information about any child who requires substitute family care in order to make effective plans to place a child in a family setting which will best meet their needs. The working out of this is achieved via linking meetings chaired by the registered manager for the fostering service. The focus of these meetings is to ensure that there is a match between needs of the child and the capacities (both practical and emotional) to meet those needs. These meetings help to ensure that the scenarios outlined in the evidence provided to the enquiry should not be repeated. Linked to the experiences of Alex and Richard, any child placed with foster carers in East Ayrshire must have their own bedroom, unless they are placed with a brother or sister with whom room sharing is appropriate. Scenarios outlined in the Alex and Richard's testimony should no longer be possible. Every child who comes into care will have an understanding of the reasons why they are in care at an age appropriate level. This is the responsibility of the Team Around the Child to ensure that each child is aware of the circumstances that have led to their admission and most importantly, what this means for their family moving forward. Additionally the Council has undertaken a pledge in relation to the mandate that every brother and sister will live together when they cannot live at home. If this is not the case, the reasons for this will be clearly recorded and the children in our care will know the whereabouts of their brothers and sisters and be able to visit them as regularly as they would like to.

Any allegation of harm relating to a child in foster care is investigated in line with East Ayrshire Council's Child Protection Procedures, which are currently being reviewed in line with the 'National Guidance for Child Protection 2021'. Additional guidance is offered by 'Managing Allegations Against Foster Carers – How Agencies Should Respond' (Scottish Government, 2013). Any allegation by a child in the Council's care is responded to within a child protection planning context and is fully investigated. Similarly all allegations are recorded on a foster carers record, included in a chronology and reviewed by the Fostering and Resources Panel routinely. These review mechanisms require statutory checks to be refreshed including criminal and health check updates. As a regulated service, the Council's fostering manager is required to ensure that the Care Inspectorate is notified of all allegations made against foster carers and how investigations have been managed with the outcome also noted. Foster carers themselves are required to keep written records pertaining to any events taking place for the child or indeed themselves, including household family members, in order that they can be read and signed by the supervising social worker within supervision on a monthly basis. This self-report and mapping of both the family life and the child's life appeared completely absent within the testimony of Alex, Callum and Richard. Current practice mandates these records to ensure that all incidents are

triangulated when they are reported and appropriate investigations can be made.

Learning and development is now a key element of foster carer reviews and continuing suitability to be a foster carer. The Council requests that each foster carer completes at least thirty hours of training every year in line with their own needs and the needs of the children they look after. This response does not seek to insinuate that the alleged harm observed within the three testimonies would have been reduced as a result of training and development, however the current mandated expectations of foster carers should go some way to ensure that foster carers, who do not show insight into the needs of children who are care experienced, or demonstrate a hesitancy in this respect are identified at a service level.

As noted both within our Part B 3.4 response and in these further reflections, there have been a number of changes in practice over the last number of years that has enhanced the protective measures for our children in care. However, we acknowledge that further change is still required. We hope that with the implementation of The Promise, there is an eager anticipation that policy and legislation may change in the coming years and as such we welcome both the national and local implementation of the UN Convention on the Rights of the Child and the work Sheriff Mackie is leading on with the 'The Hearings Systems Working Group and the potential redesign of Children's Hearing in Scotland. Callum through his testimony provides a dignified example on how, as a child, he felt lost and rejected by the Children's Hearing's. The Council welcomes the Scottish Government ambition that all care and support services for children have a trauma-informed and trauma-responsive workforce across Scotland, ensuring that care and support are delivered in ways that both prevents further harm and promotes recovery.

We also welcome the Scottish Government's commitment to ensure that all eligible children in Scotland will have access to a 'Bairns' Hoose' by 2025, with the implementation of national standards expected in 2023. This much needed change will provide children services with an opportunity to provide a child-centred approach to delivering care and recovery for children who have experienced trauma. Children in our care are most likely to have been victims or witnesses of abuse or violence, including chronic neglect, and their needs will be far better supported by a Bairns' Hoose approach. Our children in care have a right to justice and recovery.

In addition to the anticipated policy and legislative changes that will follow, the potential formation of a National Care Service for children's social work and care, the embedding of UNCRC and the delivery of "The Promise" to Scotland's children, will require significant change in how children's plans are supported and family support delivered. For social work, the future vision requires a skilled and valued workforce that has the capacity and support to do the right thing for children in our care. Children have a fundamental right to a rich, nurturing and trusting relationship with their social worker, and as profiled within The Promise, 'Scotland must hold the hand of those who hold the hand of the child'. High caseloads have been reported as making it difficult for social workers to achieve their ambitious vision for children and their families. I would welcome the Social Work Scotland 'Setting the Bar' report (2022), which profiles the impact high caseloads have on social work practice, to be a catalyst in establishing a true understanding of the complex role and responsibilities of a social worker. We need to establish a proportionate caseload capacity in order to create the space and time for social workers to invest in those loving and trusting relationships for our children. I acknowledge that this will require significant resourcing given the current local and national challenges to workload and social worker capacity. However, we must ensure

that the brave testimony of Alex, Callum and Richard, and many others who have experienced harm whilst in care, is a defining voice that legitimately drives forward transformational change in how Scotland safeguards and cares for its children.