

## **Part B – Current Statement**

### **3. Retrospective Acknowledgement/Admission**

#### **3.1 Acknowledgement of Abuse**

- a) Does the local authority accept that between 1930 and 17 December 2014 any children cared for in foster care were abused?

In terms of the definition of abuse given by the Inquiry, and the evidence found within the Council's case file audit (detailed within our covering letter and further explored at Part D of this response) cases have been uncovered which indicate that some children reported some form of abuse and distress whilst in a foster care placement.

It should be stressed that from a case file audit of 500 plus files, which included the review of 292 children's files, only 18 incidents of reported abuse were evidenced, involving varying levels of reported abuse. The file auditors noted all incidents of reported abuse evidenced within case files, founded or unfounded, and including one incident of false allegation.

However, wider than the case file audit, it is acknowledged by the Council that other reports of abuse are likely to have been made during the period of the Inquiry and under the remit of both East Ayrshire Council and predecessor authorities. 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.

In contrast to the incidents of alleged abuse which were noted, no incidents of concern were noted in the remaining 275 children's files. Although we cannot say definitively that all 275 of these children did not experience some form of negative event at some point throughout their care experience, there is no evidence within their files to suggest that this is the case. Further, feedback from our file readers also highlighted evidence of positive care and experiences for children during this period, although we respectfully appreciate that this is not the subject of the Inquiry and therefore has not been noted in Part C and D of this response.

- b) If so, what is the local authority's assessment of the extent and scale of such abuse?

18 incidents of reported abuse were uncovered during the case file audit.

Evidence from the case file audit reports four types of abuse reported by children in East Ayrshire Council and its predecessor authorities foster care: physical abuse, sexual abuse, emotional abuse and neglect. These allegations were made against foster carers, other members of the foster carers' household, other children in placement (including siblings) and one member of the community not connected to the foster carers.

Some allegations were proven, either through admission, by being witnessed or following investigation. Some were investigated and not proven. Others were not adequately investigated. One incident was reported to the Crown Office and Procurator Fiscal Service - this incident was sexual abuse at the hands of another child in placement (sibling). This case was subsequently referred to the Scottish Children's Reporter Administration for consideration.

Of these 18 incidents, one was proven to be a false allegation and a further one involved a one off incident of another child in placement striking a child on the arm. Of the remaining 16, two incidents of physical chastisement were noted as witnessed or admitted to by the foster carer to a social worker in the 1970's. These two incidents highlight the difference between what was then considered to be an acceptable form of physical chastisement and what we now know to be a harmful and distressing form of inappropriate discipline which may now be constituted as a child assault.

The remaining incidents vary in extent, scale and duration but include incidents of inappropriate restraint and chastisement and serious sexual assault.

Full details are included at Part D of this response.

c) What is the basis of that assessment?

A case file audit as described above, in our covering letter and in Part D of our response.

### **3.2 Acknowledgement of Systemic Failures**

a) Does the local authority accept that its systems failed to protect children in foster care between 1930 and 17 December 2014 from abuse?

Based upon the evidence available to the Council at this time, it is acknowledged that in some individual cases, systems and processes were not appropriately followed. However, no evidence has been uncovered during the case file audit which indicates that systemic failure was the cause of failures to protect children in foster care between the Inquiry dates. Individual incidents within some of the 18 reported abuse cases highlight that failures in process did occur, however, other cases show proper procedure was followed.

Further, from an East Ayrshire Council perspective, from the time period 1996 – 2014, the Council has been subject to many examples of external scrutiny and inspection which highlights that we provided good quality of care to children in our fostering services. As such, it is not accepted that during the period of East Ayrshire Council, systemic failures have occurred, although it is acknowledged that in some instances the quality of assessment, planning and case recording for children should have been better.

b) What is the local authority's assessment of the extent of any such systemic failures?

As detailed above, whilst it is acknowledged that individual incidents found within the case file audit are evidence of failings resulting in children not receiving the standard of care they deserved, or would currently receive, there is no evidence to suggest that these failings amounted to systemic failures.

c) What is the basis of that assessment?

A case file audit as described above, in our covering letter and at Part D of our response. In relation to the current period of East Ayrshire Council, information evidenced within children's file noted there were also examples of good care, assessment and planning. We also base this assessment on the level of scrutiny and external inspection reported by the Care Commission, Social Work Inspection Agency, Her Majesty's Inspectorate of Education (HMIE) and Care Inspectorate during the period of East Ayrshire Council.

d) What is the local authority's explanation for any such failures?

It is assumed that this question relates to systemic failure. As such, please see information provided in a – c. Further information on failures and deficiencies in responses to abuse can be found at 3.3 below.

### **3.3 Acknowledgement of Failures/Deficiencies in Response**

a) Does the local authority accept that there were any failures and/or deficiencies in its response to abuse, and allegations of abuse, of children in foster care between 1930 and 17 December 2014?

Yes.

b) What is the local authority's assessment of the extent of any such failures in its response?

Evidence from the case file audit suggests that on some occasions the investigation into reported abuse fell short of the standards which would be expected. In addition, follow up on actions identified to assist either the child or the foster carers were not either concluded or adequately recorded.

There are admittedly some gaps in files where questions remained, for example, lack of multi-agency involvement where it would have been appropriate, failure to interview other witnesses or victims of alleged abuse in placements or 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. These are some examples where due process was not followed correctly where the current standards of child protection practice would ensure robust investigation and safety planning for children from a team of multi-agency professionals. These examples suggest that in some cases there was a lack of justice for children where they had identified that abuse had taken place and where subsequently the allegations were not appropriately investigated or concluded by the adults who were responsible for ensuring their care and wellbeing.

Conversely, some examples suggest robust and thorough investigation and as such, whilst it is acknowledged that there were inadequacies in responses to abuse and alleged abuse of children during this time period, these were not typical of the type of care that children received.

c) What is the basis of that assessment?

A case file audit as described above, in our covering letter and at Part D of our response and also any external auditing and inspection post 2000.

d) What is the local authority's explanation for any such failures/deficiencies?

As mentioned above, in some instances, for example those incidents of physical chastisement in the 1970's, the explanation is that at that time, this sort of action was considered to be acceptable.

From the evidence available within other examples, there is a suggestion that where children had moved from the placement in which the harm was alleged to have occurred, this was where the investigation of incidents ended. There may have been a recognised requirement to work with foster carers or the child to achieve various outcomes but there is either no record of the conclusion of these matters or these matters were not concluded.

Further examples suggest that investigations took place within the social work teams and that multi-agency involvement was not always utilised.

### **3.4 Changes**

a) To what extent has the local authority implemented changes to its policies, procedures and practices as a result of any acknowledgment in relation to 3.1 – 3.3 above?

East Ayrshire Council has a strong embedded culture of reflection and learning for improvement. We continuously recognise where we need to respond to issues that arise where we think we could have done better, as well as responding to changes in legislation and national policy.

It is recognised through this investigation that in some instances where historical harm was evidenced, the child's allegation of abuse did not achieve the necessary multi-agency response to safeguard their wellbeing that would be achieved under current procedures. This did not allow children to achieve recourse to justice where, in some cases, this should have been pursued.

East Ayrshire Council has a strong relationship with its Child Protection Committee that has overseen significant improvements in the development of multi-agency safeguarding practice. We have evidence of improvements with Interagency Discussions when a risk of significant harm is identified, and with the development of Joint Investigative Interviews. Our plan is to implement the new national trauma informed model to ensure that there is a more informed and forensic approach to children's stories and allegations of harm.

As a Council we have reached a significant reflective milestone following the voices of thousands of care experienced children / young people / adults who have courageously told their story not only through the National Child Abuse Inquiry, but via the Independent Care Review (2020). In February 2020 the Independent Care Review highlighted to the Council that the care system for our children is seen as labyrinth of legislation, policy and practice, reflective of a national trend and culture of impulsivity to make changes to the 'system'. The Council recognises the need to blend both the learning from this inquiry investigation, with the principles identified in the national 'Promise', through a review of our local guidance and procedures, helping shape, develop and improve practice for children in our care.

East Ayrshire Council have continued to promote a continuous improvement agenda and has appropriately responded to not only the changes in legislation and policy, but additionally with the identified learning that has been profiled and reported by both internal / external audits and through external inspection agencies. The joint inspection of services for children and young people in East Ayrshire (2018) reported that the Council had a *"systematic and well-embedded approach to self-evaluation and continuous improvement."* The improvement agenda has recognised an overall need to improve upon children's experiences whilst in our care, whilst also ensuring we have a robust and trauma informed approach to identifying, investigating and planning for children when harm and abuse is suspected. Our fostering service was last inspected in November 2018 with a report, published by the Care Inspectorate in January 2019, noting that we received 'very good' for the quality of care and support being provided to our children. This is evidence that as a Council we have robustly responded to the changes in national policy and legislation, whilst developing improvements in our practice and care standards.