

PART D – ABUSE AND RESPONSE (5.8-5.10, 5.12) as at 1st July 2021

“local authority” mean the local authority and its statutory predecessors. All references to “foster care” include boarding out with private families.

The questions in Part D should be answered in respect of abuse or alleged abuse relating to the time frame 1930 to 17 December 2014 only.

Falkirk Council’s response to this Part relates to the period from 1st April 1996 (when Falkirk Council came into existence) until 17th December 2014 (referred to in this response as “the relevant period”).

Stirling Council is the host record holder for records from the various Burgh and County Councils for Stirling, Falkirk and Clackmannanshire from 1930 to 1996 (which includes Falkirk Council’s predecessor authorities). Stirling Council’s response will therefore cover the period 1930 to 31st March 1996. We hold some committee/burgh information in Archives about our predecessor authorities. Relevant extracts in relation to foster care/boarding-out were provided in our response to Part A.

Responses to the questions in this Part are primarily based on the detailed reading of a sample of relevant foster files, the methodology for which is as set out in response to question 3.1(c) in Part B of our response. References in this response to “file reading” refer to that. We have also considered information about complaints, inspections and claims and also:

- Organisational knowledge of staff within the Council’s Children and Families Service and specifically the fostering service – work carried out by Service Manager, Children’s Services.
- A search of the local authority’s corporate and service records (Finance, HR, policies and committee papers between 1996 and present day, practice documents and procedures) – work lead by Service Manager, Children’s Services.

| 5.8 Known Abusers and Alleged Abusers | |
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| a) Does the local authority know of specific abusers, or alleged abusers, of children in foster care? | <p>Details of all allegations of abuse noted in the file reading can be found in the file reading analysis spreadsheet referred to in our schedule of document.</p> <p>In the two situations where file reading indicates that abuse within foster care was established and noted earlier in this submission, file reading identifies the alleged perpetrator:</p> <ul style="list-style-type: none"> • Case 1. In 1999 an allegation was made against a foster carer that she had assaulted a girl in her care. This was reported to the police. Records in relation to investigation of the incident suggest no further action was taken. • Case 2. In May 2011, during an unannounced visit by the supervising worker, a harness was found on the bed of a three year old child placed with the carers. On discussion it was established that this had been used on two occasions over a period of two weeks for five minutes to keep the child from leaving her bed. <p>Records of the investigation process are unclear but do record discussion with the child and that she was happy with the carers. She remained there until returning home. Minutes of the Foster Carer Review held on 14/06/2011 state that:</p> <p><i>“the panel agreed that ...this was clearly a concerning incident (and) there were particular circumstances that came into play around the time of the incident. Mr [redacted] has admitted upon reflection that he had not used the supports in place and assured the panel that these would be utilized in future. Mr [redacted] was also encouraged to use respite for future placements to allow him to have a break Mrs C (supervising worker) advised that specific areas of training are required after recent events and these are being looked in to”.</i></p> <p>It should be noted that these situations are based on professional social work assessment of allegations. One is an established incident, the other is not. In neither case were the carers prosecuted.</p> |
| b) If so, what are the names of the abusers, and/or alleged abusers? | <p>In none of the situations where abuse was established were the alleged perpetrators charged or convicted. Details of each allegation can be found on the file reading template spreadsheet under the “allegations of abuse” tab. The names of the foster carers are listed under column F (“abuser”). Please note that some of these allegations are post 17th December 2014. In relation to the two specific cases noted in 5.8.(a) above Case 1 is Mrs [redacted] at the time of the allegation), and Case 2 Mr [redacted] In the spreadsheet they are noted as Foster carer 31 and foster carer 3 respectively.</p> |

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| | | The file reading template also outlines alleged incidences of abuse which were not substantiated, and the names of the alleged abusers in the allegations of abuse tab, column B (allegations) and column F (name of alleged abuser) |
| c) | For each of these persons, please provide as much as possible of the following information: <ul style="list-style-type: none"> the period (dates) during which they are known or alleged to have abused children in foster care if they were foster carers, or if not, their relationship with the foster carers or what other role they had during the period of abuse and/or alleged abuse the knowledge sought or received about them by the local authority at the point of approval/registration of foster carers and thereafter | See template referred to above which details the nature of the allegations, and against whom, date, type of investigation and outcome, as well as the checks and related approval information. These details are taken from individual file reading templates which can also be made available to the inquiry if required. Examples are: <ul style="list-style-type: none"> File reading in relation to one carer registered in 1998 notes that they were deregistered due to 'allegations, breaches of confidentiality and unsuccessful placement'. Records describe breaches of confidentiality, allegations of physical abuse which was unsubstantiated, and issues with the behavior of the male carer who was also a voluntary driver who failed to follow the correct processes for children in care being transported. Carers registered in 2001 are noted in the file reading as having three allegations of sexual abuse made against the male carer in May 2001, October 2006 and March 2017. All three were reported, recorded and Child Protection protocols followed, and all concluded with NFA. Paperwork is contained within file, and it is noted that, following the final allegation, steps were taken to de-register the carers, but they subsequently resigned. Case note from March 2017 record the male carer being aggressive on the telephone to the supervising social worker. |
| d) | any information (including regarding abuse or alleged abuse) sought by, or provided to, third parties or future employers at any point after the allegation of abuse was made | Details of this have not been found in the file reading or other records sourced to date. Our historical memory recalls an instance where a carer's employer was notified of a substantiated allegation and of a nature which caused concern. While specific details are not available, where a carer has a proven allegation or concern against them a review of their status is undertaken, and carers will usually be taken to a de-registration panel. In this situation, the De-registration Panel will make a recommendation to the Agency Decision Maker in relation to whether that carer should be referred for consideration for listing as unsuitable to work with children. Additionally, if a carer then applies to be a carer for another authority, procedures require that checks are made with the authority where that carer resides and any agency for whom they have previously been a carer. This ensures that any concerns including the reason for de-registration and allegations are shared. |
| e) | Were known abusers, or alleged abusers, of children permitted to continue as foster carers? | Nationally, very few allegations against foster carers are established (2% tFN). While it is recognised that abuse can take place within fostering households, the nature of the role of foster carers also means that many unfounded allegations will be made for a variety of often complex reasons. Details of allegations and outcomes of any investigations are contained in the file reading template referred to above and contained in the schedule of documents. Both the foster carers against whom allegations were substantiated continued as foster carers. Column P notes whether a child was removed from the care of the foster carer or not. |
| f) | If so, why was this considered to be appropriate? | See above. Many allegations are not substantiated and in such a situation an assessment of wellbeing and what is best for the child is undertaken to inform if the child remains with the foster carer or not. The situation outlined in section 5.3(a) and noted below is an example of this. <ul style="list-style-type: none"> In 2001, a child made an allegation of physical abuse by their foster carer to their parents during contact. The substance of this was that following the child hitting a younger foster child in the placement, that the carer "grabbed him by the throat and it hurt". The carer acknowledged grabbing the child by the front of his T-shirt only. A planning meeting was held, and discussion took place with the police who did not consider this to be an assault. The matter was investigated as a social work only investigation and considered within child protection procedures. The child remained in placement as he retained a positive relationship with the carer. The matter was followed up with the parent and the carer provided with further training on safe caring |

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| g) If so, what process of monitoring/supervision followed? | <p>The national Allegations Against Foster Carers Protocol published in 2013 was amended as a procedure for Falkirk Council. This along with the procedures for foster care, include the following:</p> <ul style="list-style-type: none"> The process to be followed where there is an allegation made against a foster carer, including action required where a concern indicates a need for training or other work with a carer; the referral for a foster care review if a concern or allegation is substantiated or of a specific nature; and any monitoring action required. Fostering procedures include where an allegation or investigation highlights concerns. A foster carer review may result in additional actions such as further training, restrictions on registration, a period of suspension pending certain actions or a referral to a De-registration Panel. <p>An example of allegation discussion at a foster carer review in 2008 is included in the schedule of documents.</p> |
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5.9 Specific Complaints

| <p>a) How many specific complaints of abuse of children in foster care have been made to the local authority?</p> <p>For each specific complaint, please answer the following:</p> | <p>The Council has not received any specific complaints of abuse of children in care via the formal complaints procedure during the relevant period.</p> <p>The Council has received specific allegations of abuse of children in care which were dealt with outwith the formal complaints procedure via our child protection processes during the relevant period. These are dealt with in section 5.8 above (known abusers and alleged abusers). The file reading spreadsheet (updated as at 1 July 2021) details the information sought in this section, including the names of foster carers against whom an allegation was recorded within the file reading sample, date of allegation, details of the incident and actions taken. It also records the checks undertaken at the point of registration where this was noted in the file.</p> <p>Section 5.8(a) details the two incidences of alleged abuse which were recorded by file readers as substantiated in the file reading. Details are in the spreadsheet, line 29 and line 3 (ID 31a and 3a) . The names of the foster carers involved were also provided to the Inquiry in our updated Part D as of 8th October 2021 but are also given in the table below for the sake of completeness.</p> <p>We have also provided below the specific reference in the file reading spreadsheet for the carers against whom unsubstantiated allegation were made.</p> <table border="1" data-bbox="607 1178 1547 1499"> <thead> <tr> <th></th> <th>Foster Care ID</th> <th></th> </tr> </thead> <tbody> <tr> <td colspan="3">Substantiated</td> </tr> <tr> <td>ELM</td> <td>3</td> <td></td> </tr> <tr> <td>ELN</td> <td>31</td> <td></td> </tr> <tr> <td colspan="3">Unsubstantiated</td> </tr> <tr> <td>ELP</td> <td>5</td> <td>One allegation - investigated jointly with police but insufficient evidence and child remained with the carer</td> </tr> <tr> <td>ELQ</td> <td>8a</td> <td>One allegation - physical abuse, investigated by social work but no further action taken.</td> </tr> <tr> <td>ELS</td> <td>16a</td> <td>One allegation - physical abuse, jointly investigated, referred to police but no action taken, not recorded if child was removed or not.</td> </tr> <tr> <td>ELU</td> <td>15b,c,d,e,f,g,h,i</td> <td>Nine allegations - some not recorded but remainder are physical abuse. All</td> </tr> </tbody> </table> | | Foster Care ID | | Substantiated | | | ELM | 3 | | ELN | 31 | | Unsubstantiated | | | ELP | 5 | One allegation - investigated jointly with police but insufficient evidence and child remained with the carer | ELQ | 8a | One allegation - physical abuse, investigated by social work but no further action taken. | ELS | 16a | One allegation - physical abuse, jointly investigated, referred to police but no action taken, not recorded if child was removed or not. | ELU | 15b,c,d,e,f,g,h,i | Nine allegations - some not recorded but remainder are physical abuse. All |
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| | Foster Care ID | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Substantiated | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ELM | 3 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ELN | 31 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Unsubstantiated | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ELP | 5 | One allegation - investigated jointly with police but insufficient evidence and child remained with the carer | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ELQ | 8a | One allegation - physical abuse, investigated by social work but no further action taken. | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ELS | 16a | One allegation - physical abuse, jointly investigated, referred to police but no action taken, not recorded if child was removed or not. | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ELU | 15b,c,d,e,f,g,h,i | Nine allegations - some not recorded but remainder are physical abuse. All | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | | | investigated and 2 reported to the police. Child removed on three occasions. |
| | ELW | 19a | One allegation - physical abuse, investigated and no evidence but referred to police, no action taken but child removed |
| | ELY | 20a, b | Two allegations - physical abuse (one by family member one by foster carer), investigated, no action taken, family member referred to police, child remained. |
| | EMA | 24a | One allegation - physical and emotional abuse, investigation, outcome not recorded, not referred to police, child not removed |
| | EMC | 26a | One allegation - type of abuse not recorded, investigated by social work, no further action taken, referred to police, child remained |
| | ELN | 31b | One allegation - no details recorded, but child removed. |
| | ELO | 33a | One allegation - friend of foster carer (carer name is ELO), no investigation |
| | ELR | 48b | One allegation - no details or date recorded |
| | ELT | 36a | One allegation - No details but investigated |
| | ELV | 37c | One allegation - sexual abuse, investigated and referred to police, no evidence to support claim, child remained |
| | ELX | 39a | One allegation - physical abuse, investigated, no evidence referred to police, child remained. |
| | ELZ | 32a | One allegation - physical abuse, social work investigation outcome not recorded, child remained |
| | EMB | 50b,c | Two allegations - physical abuse, emotional abuse; investigated, no evidence/not recorded, young person moved on one occasion |
| | EMD | 52a | One allegation - physical abuse, no records but child remained |
| | EMF | 51a,b | Two allegations - physical abuse, investigated by social work, no action taken children remained in placement. |
| | EME | 53a,b,c | Four allegations - physical abuse, some records missing or unclear, investigated, children remained in placement on all but one occasion |
| | b) Who made the complaint? | N/A | |
| | c) When was the complaint made? | N/A | |
| | d) Against whom was the complaint made? | N/A | |

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| e) What was the nature of the complaint? | N/A |
| f) When/over what period was the abuse alleged to have taken place? | N/A |
| g) What was the local authority's process and approach in dealing with the complaint? | N/A |
| h) What was the local authority's process and approach for investigating the complaint? | N/A |
| i) What was the outcome of the complaint following that investigation? | N/A |
| j) Did the local authority provide a specific response to the complaint? | N/A |
| k) If so, what was the form of response e.g. apology, redress, pastoral response or any other type of response? | N/A |
| l) If there was no response, why not? | N/A |
| m) Was the information/content of the complaint passed to police? | N/A |
| n) If not, why not? | N/A |
| 5.10 Civil Actions – | |
| a) How many civil actions have been brought against local authority relating to abuse, or alleged abuse, of children in foster care? For each such civil action, please answer the following: | One |
| b) Who brought the action? | The action was brought by a survivor via their solicitor. |
| c) When was the action brought? | 7th December 2018 |
| d) Against whom was the action brought? | Central Regional Council (Falkirk Council deals with CRC claims) |
| e) What was the nature of the abuse, or alleged abuse, to which the action related? | The claim relates to alleged physical and emotional abuse. |
| f) What were the names of the persons said to have, or alleged to have, committed abuse? | This case is with the Procurator Fiscal. The PF has the files and our insurance section does not have copies. However, the foster carers were a Mr and Mrs 2FKGFK and we are advised by our insurance section that it is likely that proceedings if raised will be against Mrs 2FKA |
| g) When/over what period was the abuse said, or alleged, to have taken place? | 1979 – 1980 |
| h) How did the action progress? | The civil action is still pending. The file is with Police Scotland for review. |
| i) What was the outcome? | There is no outcome as yet. |
| j) Was the action settled on a conditional basis of confidentiality? | N/A |
| k) Who was/were the local authority's legal representative(s) in relation to the civil action? | Clyde & Co. Solicitors |
| l) Did the local authority carry insurance for meeting civil claims at the time the action was live? | Yes |
| m) How/where can copies of the court papers relating to the civil action be made available to the Inquiry? | The Council can source a copy of the court papers from its solicitors although, as noted above, the case is still live. |
| 5.12 Police | |

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| a) | <p>How many complaints of abuse of children in foster care have been made to the police?</p> <p>In relation to each known complaint to the police, please answer the following questions:</p> | <p>No formal complaints have been recorded in relation to abuse by a foster carer and therefore none have been passed on to the police.</p> <p>Where an allegation of abuse is made, there has been since 1996 a child protection process which is followed, and since 2013/14 outlined in the Allegations Against Foster Carers Protocol noted above. The planning meeting held as stage one of that protocol may include the police and other agencies.</p> <p>From the file reading, 9 allegations between 1996 and 2014 are recorded as being referred to the police. These are noted in the file reading analysis. These are mentioned for the sake of completeness and are not considered as complaints of abuse which have been referred to the police.</p> |
| b) | Who was the alleged abuser or abuser? | The person against whom the allegation was made in each of these situations was the foster carer. |
| c) | Did the police conduct an investigation in relation to the complaint? | <p>As noted, none of the allegations were formal complaints to the police.</p> <p>Joint investigations or police only investigations are recorded in relation to the 9 allegations between 1996 and 2014. File reading records a further 3 where referral to the police is noted as 'not recorded'.</p> |
| d) | If so, who conducted the investigation and when | The outcome of the police investigation is not recorded in all situations. However, the file reading indicates no situations where charges or prosecution resulted. |
| e) | What was the outcome of the police investigation? | See above |
| f) | What was the organisation/establishment's response? | As noted, there have been no formal complaints to the police. |
| 5.13 Crown | | |
| a) | <p>To what extent has the Crown raised proceedings in respect of allegations of abuse of children in foster care?</p> <p>In relation to each time the Crown has raised proceedings, please answer the following questions:</p> | To our knowledge there have been no instances of this nature. |
| b) | What is the name of the person(s) against whom the proceedings were raised | Not applicable |
| c) | What was the nature of the charges? | Not applicable |
| d) | What was the outcome of the proceedings, including disposal/sentence if there was a conviction? | Not applicable |
| e) | What was the local authority's response to the proceedings and outcome? | Not applicable |