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**This response supersedes the interim submission on behalf of The North Ayrshire Council provided to the Inquiry on 28 February 2020.**

## **Evidence**

The North Ayrshire Council advises the Inquiry that Mr David MacRitchie, Chief Social Work Officer (CSWO), is likely best placed as a witness in relation to all parts of this response on behalf of the organisation. Depending on the nature of the evidence required by the Inquiry at the relevant time, the CSWO may identify colleagues with particular knowledge or expertise who would be better placed to assist in that regard.

## **Methodology**

*(Note: this methodology has been updated since The North Ayrshire Council's response to Part A and interim Part B was submitted to the Inquiry on 28 February 2020).*

This response is submitted on behalf of The North Ayrshire Council. Answers are provided insofar as it has been possible to ascertain the position within the timescale afforded.

Following a period of preparation, a team of social work professionals were seconded to carry out the significant review and analysis work considered necessary to inform this response. The size of the team has varied since that time, in line with the work required. The team was made up of eight professionals; four social workers, three Team Managers and one Senior (Reviewing) Officer, all from the Children & Families Service within The North Ayrshire Council. The Chief Social Work Officer and Senior Manager – Children & Families (Fostering & Adoption) maintained a supervisory role. Preparation of this response has been supported by representatives from other Council Services including Records Management and Legal Services, as appropriate.

The methodology employed to collate the information that has informed this response is as follows: -

### File review:

1. All available foster carer files from April 1996 until August 2019 have been reviewed. 201 such files were reviewed; 93 that relate to foster carers 'active' during this period but no longer, and 108 that relate to current North Ayrshire Council foster carers.
2. All relevant children's files ('relevant' being those identified as of further interest following the review of foster carer files) from 1996 to May 2020 have been reviewed. 407 such files were reviewed; 299 that relate to children placed or born after 1996, 3 that relate to children placed pre-1996 who remained in placement in April 1996 and 105 that relate to children where specific placement timeframes could not be confirmed.
3. All available files for children placed by The North Ayrshire Council in a foster placement with foster carers from another local authority or with



foster carers engaged by an external agency from April 1996 until May 2020 have been reviewed. 147 such files were reviewed in relation to children born or believed to have been so placed after 1996. The records that relate to the foster carers themselves (with whom those children were placed) are not held by The North Ayrshire Council and as such, have not been reviewed.

4. All other accessible information (whether held in paper form or electronically) in relation to national and local policies and procedures including local fostering panel minutes, committee reports, complaint records and other guidance in respect of local Looked After Children has been reviewed and scrutinised to inform this response (such review has not been limited to the post-1996 period, however more detailed information regarding local procedures is retained by The North Ayrshire Council relative to that period). The file review referenced above enabled the review team to evaluate the extent to which such policies were adhered to in practice over time.
5. Key information held in child and foster carer files and other available sources has been triangulated, where possible.
6. Despite this due diligence, it is recognised that some records are incomplete. In circumstances where an allegation of abuse has been identified from file review, but the details of the complaint are incomplete, it has nonetheless been included in the response at Section 5.9 (Part D).
7. In Appendix 1 – Specific Complaints and Appendix 2 – Specific Complaints (Children), complaints are categorised as ‘historic’ if the allegation was made after at least six months had elapsed since the child moved from the foster placement and as ‘current’ if made while the child was in the relevant foster placement or within six months of them leaving the placement. This is distinct from the categorisation throughout the Notice as to ‘past’ and ‘present’ periods (see 10 below).

Predecessor authorities:

8. In respect of the time period 1930 until 1975, reference should also be made to the submission on behalf of South Ayrshire Council relative to Ayr County Council. Relevant files held by The North Ayrshire Council that relate to this period have been reviewed and informed the preparation of this response. Specifically, 4 foster carer files were reviewed that relate to carers approved prior to 1975.
9. In respect of the time period 1975 until 1996, reference should also be made to the submission on behalf of Glasgow City Council relative to Strathclyde Regional Council. Relevant files held by The North Ayrshire Council that relate to this period have been reviewed and informed the preparation of this response. Specifically, 65 foster carer files were reviewed that relate to carers approved between 1975-1996; the majority of whom were active foster carers at the time The North Ayrshire Council

was constituted. In relation to children's files, following the same methodology as for post-1996 period (referenced at 2 above), 55 children's files retained by the local authority that relate to the period 1975-1996 were reviewed to inform this response. All Fostering Panel Minutes held by The North Ayrshire Council that relate to this period have also been reviewed to inform this response.

10. Unless otherwise stated, the information within this submission commences from the inception of The North Ayrshire Council. 'Past' relates to the time period 1 April 1996 until 17 December 2014. 'Present' relates to the time period 18 December 2014 until submission of this response on 31 July 2020. The review and analysis undertaken to inform this response in respect of the period 1 April 1996 to date has been extensive. Analysis of the pre-1996 period in this response is more limited and reference is made to 7 & 8 (above) in this regard.

General:

11. It has not been possible to ascertain total numbers of children within foster care during all relevant period(s) (including between April 1996 – December 2014) to allow for greater contextual analysis.
12. The definition of 'abuse' that accompanied the Section 21 Notice is noted. Having sought further advice from solicitors for the Inquiry as to whether, (considering the terms of Section 5.1) complaints of emotional abuse in isolation should be included in the authority's response, such complaints have been included at Section 5.1 and within Appendix 1 – Specific Complaints. However, when analysing the extent of abuse elsewhere in the response (including at Parts B and D) The North Ayrshire Council has analysed abuse and alleged abuse that it considers meets the Inquiry's principal definition.
13. When analysing the extent of abuse, particularly at Part B, The North Ayrshire Council has not limited its consideration to those cases in which there was a criminal conviction, civil finding or an admission that abuse had taken place. This may have had the result, *prima facie*, of artificially inflating numbers referred to in the response. It was not the role of the local authority to make a factual 'finding' as to whether abuse (as defined) occurred, but to respond to complaints and inappropriate behaviours, and take appropriate steps to safeguard children in foster care. In consultation with the Chief Social Work Officer, the review team analysed the specific complaints and identified those cases where the action taken by the local authority in response to the investigation of an allegation of abuse indicated unacceptable behaviour on the part of a foster carer. There is no single factor that enabled all such cases to be identified; this involved analysis of the local authority response, an understanding as to the policy and procedural framework at the time, and the commentary within files. That exercise was carried out to assist with the context and analysis required through this response. It should not be assumed that a finding of abuse (as defined by the Inquiry) was made in all such identified cases.



14. Reference is made throughout this response to the North Ayrshire Health & Social Care Partnership. The partnership is not a legal entity. Many of the statutory functions relevant to this response are now integrated (in accordance with the Integration Scheme between The North Ayrshire Council and NHS Ayrshire & Arran as amended) and as such, strategic direction for their delivery has been delegated to the North Ayrshire Integration Joint Board. The North Ayrshire Council is then directed to deliver services in accordance with the IJB's Strategic Plan. Whilst not material to the substance of this response, this explanation is provided to assist those reviewing the Council's response in understanding the current local position.



## Part A – Background

### 1. Characteristics

#### 1.1 History of the Local Authority

- a) **Over the period from 1930 to date, please provide details of the predecessor authorities for the local authority area for which the authority is now responsible, and the time periods during which these authorities were the responsible authority for the area, or any part thereof.**

1930 – 1975 The County Council of Ayr – The Local Government (Scotland) Act, 1929 transferred functions from various government bodies to county councils. The relevant county council for the now North Ayrshire region was the County Council of Ayr.

1975 – 1996 Strathclyde Regional Council – The Local Government (Scotland) Act, 1973 created Strathclyde Regional Council which was further subdivided into district councils. The relevant district council for the now North Ayrshire region was Cunninghame District Council. Social work responsibilities were transferred from Ayr County Council to Strathclyde Regional Council. Cunninghame District Council in practice had certain delegated responsibility for the discharge of relevant functions, including in relation to short-term fostering.

1996 to date – The North Ayrshire Council – The Local Government etc. (Scotland) Act, 1994 created The North Ayrshire Council as successor authority from 1<sup>st</sup> April 1996 to date. Social work functions transferred to The North Ayrshire Council at that time.

- b) **When and how did the local authority become involved in the provision of foster care for children in Scotland?**

The local authority became involved in the provision of foster care due to legislation which came into force from time to time in relation to children and young people, as well as fostering provision specifically. Please refer generally to Section 1.3 below.

- c) **How has the involvement of the local authority in the provision of foster care changed/developed over time?**

As above, please see response at Section 1.3.

Significantly, The Children (Scotland) Act 1995 reiterated the provision of support to young people leaving foster care and extended the local authority's duties on the foster care continuum. The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 were amended as of 1st April 2015 by the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2015 to extend the categories of aftercare support provided for by the Children & Young People (Scotland) Act 2014.

## 1.2 Funding of Foster Care

### Past

**a) How were the local authority's operations and activities, so far as relating to the provision of foster care, funded?**

The provision of foster care services by The North Ayrshire Council and its predecessor authorities was funded from the General Revenue Account of the Council.

From 1930 until 1974 these services were funded by Ayr County Council as a draw on their County Fund which was financed by a combination of the Rates payable by owners and occupiers and central government funding in the form of General, Additional and Supplementary Exchequer Grants, as detailed in the Local Government (Scotland) Acts 1929 and 1947, later replaced by the Rate Support Grant, under the Local Government (Scotland) Act 1966.

From 1975 until 1996 foster care services were provided by Strathclyde Regional Council. Funding for Strathclyde Regional Council's General Revenue Account was subsequently replaced, under the Abolition of Domestic Rates Etc. (Scotland) Act 1987, by a combination of the Community Charge, Non-Domestic Rates and the Revenue Support Grant before the introduction of the Local Government Finance Act 1992 which replaced the Community Charge with the Council Tax.

Since 1996, foster care services have been provided by The North Ayrshire Council with funding continuing to be drawn from the General Revenue Account financed by a combination of Council Tax income, Non-Domestic Rates and the General Revenue Grant, previously known as the Revenue Support Grant.

**b) To what extent, if any, did the local authority provide funding to other organisations for the purposes of provision of foster care?**

For the information available for financial years 2012/2013 and 2013/2014, other organisations received 28% of the total foster care budget in 2012/2013 and 29% of the total foster care budget in 2013/2014.

No other relevant financial data is available for the period 1996 – 2012.

**c) If funding was provided by the local authority to other organisations for the provision of foster care, to whom was it provided, when was it provided and what criteria were applicable to its provision?**

Other organisations who received Foster Care funding and when:-

- Action for Children – from 1<sup>st</sup> April 2012 – 31<sup>st</sup> March 2013
- Barnardo's Scotland – from 1<sup>st</sup> April 2010



- Core Assets – from 1<sup>st</sup> January 2013
- Care Visions – from 24<sup>th</sup> May 2013
- Foster Care Associates – from 1<sup>st</sup> April 2012 – 31<sup>st</sup> March 2013
- Foster Plus – from 1<sup>st</sup> April 2012
- SWIS Foster Care Scotland Ltd – from 10<sup>th</sup> March 2014
- St Andrew's Children's Society Ltd – from 8<sup>th</sup> October 2014
- TACT – from 7<sup>th</sup> November 2014 – 21<sup>st</sup> November 2014.

In terms of criteria:-

From 2010 until 2014 the local authority made use of external fostering organisations when unable to provide a placement from their own resources.

Such placements were negotiated by means of a specific individual agreement with each external organisation.

The criteria for such placements would be based on:

- Experience
- Skills
- Track Record
- Evidenced Training
- Capacity to provide a therapeutic approach to parenting
- Additionality – such as respite provision, therapeutic support to foster carers and children/young people
- Regular supervision – advice and guidance to foster carers
- Matching considerations with the child/young person
- Geographical considerations

In addition, each external fostering provider was required to be registered and inspected by the Care Commission and the gradings awarded formed part of the usage criteria. Legal procurement duties have developed over time and may have influenced how such external arrangements were made.

- d) To what extent was financial state support available to foster carers? How were foster carers made aware of that state support? How was that state support accessed by foster carers (e.g. directly or via the local authority)?**

Eligible foster carers would access financial state support directly from Department for Work and Pensions (DWP). Said support was based on the particular needs of the child in placement, for example disability benefit.

- e) To what extent was financial support from the local authority available to foster carers?**

From 1996 and the establishment of The North Ayrshire Council as a local authority, it would appear that financial support has always been made available to foster carers. Recruitment via advertisements and publications asking people



to become foster carers stated that financial support was available and carers were informed what financial support was available to them at the outset of their assessment period (for example while they were attending Preparation Group Meetings). Financial support was paid to the carers via the local authority by fortnightly payments into their bank account. Fostering allowance was only paid when a child was placed.

**f) If financial support was available, what was the source of those funds (i.e. from local or central government)? What criteria did the local authority apply to the distribution of such funds?**

Please refer to Section 1.2 (a) above.

From 1996, it would appear that local authority funds were distributed via the budget setting process based on demand pressures and strategic direction.

Please also see SD 1 (Fostering Allowance Spreadsheet) for a more detailed breakdown of distribution of funds.

**g) How were foster carers made aware of any financial support available from the local authority? How was that financial support accessed by foster carers?**

Please refer to Section 1.2 (e) above.

From 1996, The North Ayrshire Council was established as a local authority. The process to access financial support was as follows:-

- During the assessment process, social workers informed the prospective foster carers of the Fostering Schemes (see Section 1.2 (i) below and specifically the two local schemes referred to by way of example) available and the requirements and funding attached to each Scheme.
- There was also discussion, during the assessment, in terms of what may be the most appropriate Scheme to suit the prospective carers and their family circumstances.
- Following a successful assessment and recommendation of approval by the Fostering Panel, funds would typically be paid, in accordance with the relevant Scheme, directly into the foster carer's bank account every two weeks.

**h) What other sources of funding were available to foster carers in relation to the provision of care for children?**

Limited state financial support may have been available in the context of particular placements depending on the needs of the child in placement, for example disability benefit.

**i) Was the funding adequate to properly care for the children?**

The local authority was always aware of the need to ensure that funding to foster carers was adequate and consider that they discharged this requirement satisfactorily.

For a detailed breakdown of funding, please refer to SD 1 (Fostering Allowance Spreadsheet).

From 1996 to 1<sup>st</sup> November 2010, foster carers were paid a weekly £93.76 to £187.57, dependant on the age of the child in placement plus an enhancement of 40% or 105% per week based on the needs of the child. In a previous Scheme, foster carers were also given additional allowances for holidays, Christmas and birthdays.

The Fostering Service had two schemes in operation from 1<sup>st</sup> November 2010.

Fostering First Scheme - £200.00 per week, per child, plus a fee of £200 per week per child.

Fostering Xtra Scheme - £200.00 per week, per child plus a fee of £200.00 per week per child. In addition, £150.00 retainer, per week, per child, was paid.

**j) If not, why not?**

Not applicable.

**Present**

**k) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**l) If so, please give details.**

Please see SD 1D (Fostering Allowance Spreadsheet), generally.

Up to 31<sup>st</sup> March 2015, the funding was provided by the local authority. Following integration of local Health and Social Care functions and services locally on 1<sup>st</sup>

April 2015, the relevant budget was delegated from the Local Authority to the Integration Joint Board (IJB) to fund foster care services.

Of the funding available for the Fostering Service as at April 2015, 33% was spent on (external) private provision. This has decreased to 15% of the present funding of foster care services.

Other organisations who received foster care funding (and in doing so required to comply with the relevant criteria) were:-

- Action for Children – all years from 2014
- Barnardo's Scotland – all years from 2014
- Core Assets – all years from 2014
- Foster Plus (Foster Care) Ltd. – all years from 2014
- The National Fostering Agency – from 1<sup>st</sup> April 2018
- SWIS Foster Care Scotland Ltd. – from 31<sup>st</sup> November 2014 – 5<sup>th</sup> December 2016.

From approximately 2014, the local authority has utilised fostering placements from external providers who are registered via Scotland Excel. The local authority therefore commissioned fostering placements from the Scotland Excel Framework, with external fostering providers, who are appropriately registered and meet the necessary contract requirements.

As previously stated, each external fostering provider is still required to be registered and inspected by the Care Inspectorate. As a result, the Care Inspectorate gradings, in terms of the National Care Standards, are also scrutinised and form part of the criteria for selection of an external provider.

Local authority funds were distributed via the budget setting process based on demand pressures and strategic direction.

Following integration of health and social care in 2015, the local Integrated Joint Board of the Health & Social Care Partnership agreed the budget allocation based on demand and strategic plan of the North Ayrshire Health & Social Care Partnership.



### 1.3 Legal Status

#### (i) Local authority

##### Past

#### a) **What was the legal basis which authorised or enabled the local authority to become responsible for the provision of foster care for children in Scotland?**

There are a number of pieces of legislation which contributed to the requirement of provision of foster care by local authorities, the most significant of which are outlined below.

The Children Act 1908 (and to a lesser extent its predecessor Acts of 1889, 1894 and 1904) allowed for more significant state intervention in family life and in particular, the removal of children from their parents into the care of a relative or some other 'fit person' where said children were the victims of specific offences. In the words of McK. Norrie, *"The 1908 Act is, therefore, the precursor to all subsequent substantial Childrens Acts in Scotland dealing with both young offenders and victims of abuse and neglect with the recognition that these children are often the same, and that their difficulties usually stem from their upbringing."*<sup>1</sup> The Children and Young Persons (Scotland) Act 1932 and subsequent Children and Young Persons (Scotland) Act 1937 reinforced the use of 'committal to the care of a fit person' – otherwise known as 'boarding out'<sup>2</sup>. At this time the shift was made from the primitive form of kinship care then operating to a more sophisticated care option within private families. This forms the initial basis of local authority responsibility for foster care through the then education authorities.

The Children and Young Persons (Scotland) Care and Training Regulations 1933 which came into force in November 1933, regulated 'boarding out' for those children committed to the care of Education Authorities.<sup>3</sup> By October 1947, the 1933 Regulations were revoked in part and replaced by the Children (Boarding-out etc) (Scotland) Rules and Regulations 1947. The 1947 Regulations subsisted until August 1959, when they were replaced by The Boarding-out of Children (Scotland) Regulations 1959. The Children Act 1948 meantime had imposed a positive obligation on the local authority to be proactive in seeking out children in need of care and protection and provide substitute families until such time as the child could be returned to their parent.

Whilst the introduction of the Social Work (Scotland) Act 1968 allowed for the making of new, more thorough, regulations governing local authorities 'boarding out' functions (and subsequently the Children Act 1975 coming into force) the

<sup>1</sup> McK. Norrie (2017) Legislative Background to the Treatment of Children and Young People Living Apart From Their Parents Report for the Scottish Child Abuse Inquiry at p18

<sup>2</sup> 1932 Act, s20(3); 1937 Act, s88 as referenced in McK. Norrie (2017) Legislative Background to the Treatment of Children and Young People Living Apart From Their Parents Report for the Scottish Child Abuse Inquiry at p39

<sup>3</sup> p141 McK. Norrie (2017) provides further details of said Regulations.

1959 Regulations were only revoked and replaced by the Boarding-out and Fostering of Children (Scotland) Regulations 1985 in April 1986. At this stage there was a clear shift in the legislature's mindset (stemming from the 1968 Act) from 'boarding out' as a long-term solution to a more rehabilitative position of short-term care. The Children (Scotland) Act 1995, which subsists in an amended form to date, then became the substantive Act dealing with Looked After Children in Scotland. In April 1997, the 1985 Regulations were revoked and replaced by the Fostering of Children (Scotland) Regulations 1996.<sup>4</sup> The Arrangements to Look After Children (Scotland) Regulations 1996 came into effect simultaneously and further defined the duties of the local authority outlined in the aforementioned 1995 Act.

Most recently, the Adoption and Children (Scotland) Act, 2007 came into force. In September 2009, the 1996 Regulations were revoked and replaced by the Looked After Children (Scotland) Regulations, 2009 which subsist to date.

**b) Did that legal basis require the authority to meet, or fulfil, any legal and/or regulatory requirements in respect of children in its care? If so, please give details.**

The Children and Young Persons (Scotland) Act 1932 and subsequent Children and Young Persons (Scotland) Act 1937 formed the initial basis of local authority responsibility for foster care through the then education authorities. The Children and Young Persons (Scotland) Care and Training Regulations 1933 (as noted above) which came into force in November 1933 regulated 'boarding out' for those children committed to the care of Education Authorities.<sup>5</sup> The assessment of foster carers under this provision was minimal, relying on mostly practical exclusion criteria.<sup>6</sup> Interestingly, it provided that "no boy or girl shall be 'boarded out' with a foster parent who depends for a living mainly on the payments received for boarding boys and girls", thereby excluding private providers of care, or those with a less than altruistic approach. 'Boarding out' was permitted cross border between Education Authorities. On this basis, many city children ended up resident in the Highlands and Islands.<sup>7</sup>

The 1933 Regulations made it mandatory for the Education Authority's medical officer to visit 'boarded out' children every six months. Where the child was located out with its home authority area, such visits could be undertaken by the medical officer from that area. The Education Authority itself was required to visit the child within one month of the initial 'boarding out' and thereafter at least quarterly. The visits were specifically prohibited at school, presumably so that the focus remained on the child's 'home' situation. Biannual reports were to be submitted to allow for any concerns as to welfare or maltreatment to be identified. Unannounced visits were permitted at any time by authorised persons. Medical and dental appointments were to be arranged as necessary. Children were

<sup>4</sup> This did not effect existing approvals.

<sup>5</sup> p141 McK. Norrie (2017) provides further details of said Regulations.

<sup>6</sup> p141 -144 McK. Norrie (2017)

<sup>7</sup> p144 McK. Norrie (2017)



permitted to receive correspondence from their birth parents and also visits, the latter being at the discretion of the Education Authority and with the best interests of the child at the centre of this decision making.

By October 1947, the 1933 Regulations were revoked in part and replaced by the Children (Boarding-out etc) (Scotland) Rules and Regulations 1947. These new regulations made some inroads into positive, continuous assessment of suitability of foster carers and also defined for the first time a foster parent as “a husband and wife, or a woman, with whom a child is ‘boarded out’ by a local authority”. There was a presumption in favour of ‘boarding out’ over institutional care, with a new emphasis on what would now be considered primitive matching of child and carer.<sup>8</sup> Sibling separation was seen as undesirable and to be avoided where ‘reasonably practicable’. Many of the sound principles established in the 1933 Regulations were reiterated in these new rules<sup>9</sup>. Record keeping obligations were also enhanced in line with increased local authority responsibilities and each child was allocated to a named individual (the equivalent of the modern ‘allocated social worker’) within the locality area.<sup>10</sup>

Significantly, in terms of fulfilling their legal and regulatory requirements under the 1947 Regulations, the local authority was mandated to “*appoint an officer with experience and knowledge of social service for the purpose of assisting them in the performance of their functions under these Rules and Regulations, including the selection of foster parents and the visitation of children ‘boarded out’ by the authority*”.<sup>11</sup> Enhanced record keeping and inspection fell under the ultimate remit of such officer, including the newly conceived consideration of complaints made by ‘boarded out’ children. The notion of continuing care for those ‘boarded out’ children who had left school was formalised in a more detailed fashion than the 1933 rules had allowed. Both direct and indirect parental contact remained at the sole discretion of the local authority<sup>12</sup>. Where a child had a serious accident, illness or died whilst ‘boarded out’, the local authority was under an obligation to notify their parents immediately.

The Children Act 1948 meantime had imposed a positive obligation on the local authority to be proactive in seeking out children in need of care and protection and, among other things, provide substitute families until such time as the child could be returned to their parent.

The 1947 Regulations subsisted until August 1959, when they were replaced by The Boarding-out of Children (Scotland) Regulations 1959. The focus of these new regulations shifted from the everyday practical aspects of care of ‘boarded out’ children to the duties incumbent on local authorities to ensure the suitability of foster parents and their ongoing supervision of children in placement. Prior to ‘boarding out’, the local authority was mandated to “*obtain and consider reports on the circumstances of the child’s home and the circumstances in which he came into care...*” and also to arrange for the child to be examined by an

<sup>8</sup> p146 McK. Norrie (2017)

<sup>9</sup> See p147 McK. Norrie (2017) for a more detailed explanation.

<sup>10</sup> p149 McK. Norrie (2017)

<sup>11</sup> p149 McK. Norrie (2017)

<sup>12</sup> p152 McK. Norrie (2017)



appropriately qualified medical practitioner, said practitioner to thereafter provide a report on the child's general physical and mental health and their fitness for being 'boarded out'.<sup>13</sup> Significantly, the 1959 Regulations now allowed for a single male foster parent where he was within the permitted degree of consanguinity. Character references were introduced in respect of prospective foster parents.<sup>14</sup> Prior to 'boarding out', the local authority was required to satisfy itself as to the suitability of a particular household for a particular child, including where a child was placed out with area – an extension of earlier indicative matching criteria. Where in special circumstances cross border 'boarding out' was approved, the Regulations were required to be observed as if the child was located in Scotland. Birth parents or guardians were to be provided with the foster home address, except where they could not be found, or it was not considered to be in the best interests of the child to do so. The education authority for the area in which the child was 'boarded out' was to be immediately advised of that child's relocation to the foster home, together with particulars of the child – likewise similar information was to be provided to that area authority and education authority where the child was 'boarded out' in another area. All 'boarded out' children required to be registered with an appropriately registered medical practitioner in the foster home locality. Arrangements for medical examination and review on the placing of a child remained unchanged from the preceding regulations. All 'boarded out' children were to undergo regular dental examination, as arranged by the local authority and receive treatment as required<sup>15</sup>. Any 'boarded out' child was to be visited within two months of placement by the children's officer (or appropriate substitute) and thereafter on a quarterly basis. Said officer of the authority was to satisfy himself as to the child, foster home and parent and thereafter to provide a written report on their visit. Where the child was placed out with authority area, inter authority arrangements for supervision were permitted, albeit not relieving the placing authority of their other duties or powers. As previously required, the 'boarded out' child's birth parents were to be immediately advised of any misadventure involving the child, including where the child had run away or was otherwise unlawfully removed from the foster home. The Secretary of State was similarly to be advised<sup>16</sup>. The scope of termination of a 'boarding out' placement was widened, complimenting the extended monitoring and assessment role of local authorities in relation to placements and foster homes.<sup>17</sup> The primary responsibility for record keeping in relation to all 'boarded out' children, including the termination of placements and the reasons for same, remained with the local authority.<sup>18</sup> There remained no requirement to work towards rehabilitation of any child to their birth family, nor maintain regular contact.<sup>19</sup>

Whilst the introduction of the Social Work (Scotland) Act 1968 (and subsequently the Children Act 1975 coming into force) allowed for the making of new, more through, regulations governing local authorities 'boarding out' functions, the 1959

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<sup>13</sup> p157 McK. Norrie (2017)

<sup>14</sup> p158 McK. Norrie (2017)

<sup>15</sup> p162 McK. Norrie (2017)

<sup>16</sup> p163 – 164 McK. Norrie (2017)

<sup>17</sup> p164 McK. Norrie (2017)

<sup>18</sup> p165-166 McK. Norrie (2017)

<sup>19</sup> p166 McK. Norrie (2017)



Regulations were only revoked and replaced by the Boarding-out and Fostering of Children (Scotland) Regulations 1985 in April 1986. At this stage there was a clear shift in the legislature's mindset (stemming from the 1968 Act) from 'boarding out' as a long-term solution to a more rehabilitative position of short-term care.

Significantly, the 1985 Regulations placed a requirement on local authorities to establish Fostering Panels, the function of which was to consider approval of persons as foster parents and provide appropriate parameters on that caring function, whether by category of child or otherwise.<sup>20</sup> Where a foster carer was approved at Panel, the local authority was thereafter required to enter into an agreement with the carer to regularise all care arrangements, including payment for same and furnish the carer with details of that authorities policies and practice to be adhered to. On placement of any child, the local authority was obliged to provide the carer with sufficient relevant information about that child to allow them to undertake the caring role to an appropriate standard. In particular, contact between the child and their birth family required to be agreed, together with the arrangements for education, medical and dental treatment.<sup>21</sup> The previous, consistent, prohibition on 'boarding out' with persons who depend for a living on the placement payment was removed, effectively allowing for career carers.

Where a child was within local authority care for more than 6 weeks, it could only be placed with a foster carer where Schedule 2 particulars had been obtained and with due regard to the duty under Section 20 of the 1968 Act, that the foster placement was appropriate to the child's needs and in their best interests. Where care responsibility had vested in the local authority for less than 6 weeks, Regulation 12 of the 1985 Regulations required to be satisfied. Emergency placement was permitted where the authority concluded it was in the best interests of the child.<sup>22</sup> Children required to be placed either with carers of the same religious persuasion or with carers who would undertake to raise the child in accordance with the child's views. Sibling separation was to be seen as an option of last resort, following appropriate assessment, and to be used only where placement together was inappropriate or impracticable.<sup>23</sup>

Where a placement was out with the local authority area, notice of the placement required to be given to the local authority where the foster carer resided, as well as to the local education and health authorities and the parent or guardian as appropriate. The local authority's monitoring obligation changed to include a visit within the first week of placement and thereafter no greater interval than quarterly, as well as when placement welfare required it. The local authority remained under an obligation to terminate a placement where it was no longer in the child's best interests to reside there.<sup>24</sup> Where the placement was agreed in terms of a supervision requirement<sup>25</sup>, a review hearing was required to secure

<sup>20</sup> p169 McK. Norrie (2017) provides a breakdown of requirements for approval

<sup>21</sup> p170 McK. Norrie (2017)

<sup>22</sup> p171 McK. Norrie (2017)

<sup>23</sup> Regulation 16 Boarding-out and Fostering of Children (Scotland) Regulations 1985

<sup>24</sup> Regulation 19 Boarding-out and Fostering of Children (Scotland) Regulations 1985

<sup>25</sup> s44(1)(a) Social Work (Scotland) Act 1968



the termination. This assisted in reinforcing the monitoring role of local authorities.

The Children (Scotland) Act 1995, which subsists in an amended form to date, then became the substantive Act dealing with Looked After Children in Scotland. In April 1997, the 1985 Regulations were revoked and replaced by the Fostering of Children (Scotland) Regulations 1996.<sup>26</sup> The Arrangements to Look After Children (Scotland) Regulations 1996 came into effect simultaneously and imposed an additional requirement on local authorities to create a care plan for each child looked after by them, including in foster care. Local authorities now bore exclusive responsibility for approval of foster carers, the placement of children and the establishment of panels to approve same.<sup>27</sup> The function of the fostering panel remained as it had been under the predecessor regulations, with the paramount consideration being to safeguard and promote the welfare of the child.<sup>28</sup> Approval could only be granted where the terms of Regulation 7 was satisfied. The local authority was required to keep records of approval, reviews and agreements made. Review of approvals changed from 'appropriate intervals' as required by the 1985 Regulations to a minimum of annual reviews and the process was set out in some detail.<sup>29</sup> Where the foster carer's suitability to care was found wanting, their approval required to be terminated.<sup>30</sup> The 1996 Regulations made similar provision to that of their 1985 predecessors insofar as requiring the local authority to enter into written agreements with the foster carer.<sup>31</sup> Placement could only be made where the authority was satisfied that it was in the child's best interests. The carer's required household composition remained as it had been under the 1985 Regulations. Provision was made for both emergency placement with approved foster carers and with persons who had not been so approved, provided (in the latter case) that person was a relative or friend of the child who had been interviewed and their proposed accommodation inspected.<sup>32</sup> As was previously noted, the local authority could not make a placement recommendation to a Children's Hearing unless due process had been followed.<sup>33</sup> Said process appeared to replicate that of the 1985 Regulations. The 1996 Regulations further allowed local authorities to enter into arrangements with voluntary organisations to assist in the discharge of their fostering duties. In such cases, the local authority retained a monitoring locus in respect of the placement.<sup>34</sup>

Most recently, the Adoption and Children (Scotland) Act 2007 came into force. In September 2009, the 1996 Regulations were revoked and replaced by the Looked After Children (Scotland) Regulations 2009 which subsist to date. Whilst

<sup>26</sup> This did not affect existing approvals.

<sup>27</sup> p174 McK. Norrie (2017)

<sup>28</sup> s17(1) Children (Scotland) Act 1995

<sup>29</sup> Regulation 10 The Arrangements to Look After Children (Scotland) Regulations 1996; as cited at p176 McK, Norrie (2017)

<sup>30</sup> Regulation 10 The Arrangements to Look After Children (Scotland) Regulations 1996

<sup>31</sup> Regulation 8 and Schedule 2, The Arrangements to Look After Children (Scotland) Regulations 1996

<sup>32</sup> Regulations 13 and 14 The Arrangements to Look After Children (Scotland) Regulations 1996; as cited at p177 McK. Norrie (2017)

<sup>33</sup> p177 - 178 McK. Norrie (2017)

<sup>34</sup> p178 McK Norrie (2017)



broadly retaining the good practice consolidated by the 1996 Regulations, the 2009 Regulations significantly revoked the limitation on family structures which were considered appropriate for prospective adopters and allowed for all prospective carers to be assessed on their own merits. The system of panel approval continued for all carers – the panel makes a recommendation which the local authority's agency decision maker must ratify or otherwise. As before, the local authority is obligated to maintain case records for every foster carer. There is a prohibition against placing a child contrary to the terms of Regulation 27 of the 2009 Regulations.

As per previous regulations, the local authority may enter into agreement with registered fostering services to discharge its functions. Such agreements must be reviewed on an annual basis.<sup>35</sup> Where a child is placed with such a service, the local authority officer must carry out a visit within 28 days of commencement of the placement. When requested to do so by the Service, the local authority must visit the child within 14 days. In the case of welfare concerns, this visit must take place within 3 days.<sup>36</sup>

The 2009 Regulations also provided for an appeals process against panel decisions for the first time.<sup>37</sup> Fostering services required to be registered, latterly under the Public Services Reform (Scotland) Act 2010.

**c) Did the local authority have a legal duty of care to each child in its care?**

There is a clearly implied, if not explicit, duty of care towards all children brought within local authority care during the relevant period provided for in legislation as amended from time to time. Please see Section 1.3 (i)(a) above.

**Present**

**d) With reference to the present position, are the answers to any of the above questions different?**

No.

**e) If so, please give details.**

Not applicable.

<sup>35</sup> p181 McK Norrie (2017)

<sup>36</sup> p181 McK Norrie (2017)

<sup>37</sup> Regulation 26, The Looked After Children (Scotland) Regulations 2009

**(ii) Foster carers****Past****a) Did foster carers have a special legal, statutory or other status?**

Foster carers (in their earliest and most primitive forms) have historically been required due to a recognised need for alternative care settings following statutory intervention in the lives of children suffering abuse or neglect. The status of carers from time to time has derived from their evolving approval process, initially as a 'fit person', with education or local authorities being granted an authorising role by statute.

**b) If not, how did the local authority classify a foster carer?**

Please see Section 1.3 (i)(a) & (b) above.

**c) What was the legal basis which authorised, or enabled, a foster carer to become responsible for caring for children?**

The legal basis which authorised or enabled a foster carer to become responsible for caring for children has changed throughout the years, from the original 'appointment' under The Children and Young Persons (Scotland) Care and Training Regulations 1933 which relied heavily on practical exclusion criteria to (latterly) approval by local authority Fostering Panel. The history is broadly analogous to that provided in Section 1.3 (i)(a) & (b) above.

**d) Did that legal basis require a foster carer to meet, or fulfil, any legal and/or regulatory requirements in respect of children in his or her care? If so, please give details.**

Please see Section 1.3(i)(a) & (b) generally.

The Children and Young Persons (Scotland) Care and Training Regulations 1933 provided for a primitive assessment of foster carers, mostly reliant on practical exclusion criteria. As previously noted, this included the provision that *"no boy or girl shall be 'boarded out' with a foster parent who depends for a living mainly on the payments received for boarding boys and girls"*. The Children (Boarding-out etc) (Scotland) Rules and Regulations 1947 defined for the first time a foster parent as *"a husband and wife, or a woman, with whom a child is 'boarded out' by a local authority"*. The principles to be followed by foster parents were provided by schedule to the 1947 Regulations and provided for such matters as sleeping arrangements and co-operation with the local authority. With the introduction of The Boarding-out of Children (Scotland) Regulations 1959, foster parents were additionally required to arrange for such medical treatment of children in their care as may be required from time to time. These Regulations



now allowed for a single male foster carer where he was within the permitted degree of consanguinity.

With the revocation of the 1959 Regulations and the introduction of the Boarding-out and Fostering of Children (Scotland) Regulations 1985, Fostering Panels were established which provided parameters in relation to the approved foster carer's role and how that sat within the context of the local authority policies and practice. The 1985 Regulations were revoked and replaced by the Fostering of Children (Scotland) Regulations 1996 which came into effect simultaneously with The Arrangements to Look After Children (Scotland) Regulations 1996 in April 1997. Said Regulations in combination broadly continued the legal and regulatory requirement imposed on carers by the predecessor provisions. In September 2009, the 1996 Regulations were revoked and replaced by the Looked After Children (Scotland) Regulations 2009 which subsist to date. The system of panel approval continued for carers. Significantly, prospective foster carers were no longer excluded on the basis of relationship/family composition.

- e) **Did the foster carer have a legal duty of care to each child in his or her care?**

There is a clearly implied, if not explicit, duty of care incumbent on foster carers with regards to children in their care. In particular, the Children (Scotland) Act 1995 provided for general safeguarding of children when under the care and control of a person sixteen or over, outlining the extent of their responsibility in this regard. It is judicially settled that this extends to foster carers.<sup>38</sup>

#### **Present**

- f) **With reference to the present position, are the answers to any of the above questions different?**

No.

- g) **If so, please give details.**

Not applicable.

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<sup>38</sup> P v P, 2000 SLT 781 at 786C



## 1.4 Legal Responsibility

### (i) Local authority

#### Past

#### a) Did the local authority have any legal responsibility for the children in its care?

The local authority has always had general legal responsibility for the children in its care. Said legal responsibility derives from the enabling provisions of The Children and Young Persons (Scotland) Act 1932, through the various legislative changes to date (as detailed at Section 1.3). In particular, The Children Act 1948 allowed local authorities to assume parental rights over children in their care by making a 'Parental Rights Resolution' declaration. This subsisted until the Children (Scotland) Act 1995, where the authority was able to seek judicial authority for the obtaining of parental responsibilities through the making of a Parental Responsibilities Order. The Adoption and Children (Scotland) Act 2007 most recently introduced the Permanence Order which allowed the local authority to obtain parental rights and responsibilities in respect of any child in its care where the appropriate criteria were met.

#### b) If so, what was the nature and extent of that legal responsibility?

The nature and extent of the legal authority is detailed in Section 1.3 and 1.4(i)(a) above.

The extent to which a local authority is empowered to take decisions in respect of children in its care will also depend, to some extent, on the legal basis on which the child is looked after or accommodated.

#### c) Did any other person or organisation have any legal responsibility for the children while they were in the local authority's care?

The persons who held parental rights and responsibilities for the child at the time of their reception into care would continue to have legal responsibility for the child unless otherwise fettered by judicial or Children's Hearing process.

Foster carers have always had an implied, if not explicit, duty of care for those children within their care. In particular, the Children (Scotland) Act 1995 provided for general safeguarding of children when under the care and control of a person sixteen or over, outlining the extent of their responsibility in this regard. It is judicially settled that this extends to foster carers.<sup>39</sup>

The Adoption and Children (Scotland) Act 2007 most recently introduced the Permanence Order which allowed foster carers to be granted parental rights and

<sup>39</sup> P v P, 2000 SLT 781 at 786C

responsibilities in respect of any child in their care where the appropriate criteria were met. In making an application for a Permanence Order for a child, the local authority would assess whether certain ancillary parental rights and responsibility should vest in the child's foster carer(s) if the order is granted. This may be appropriate if the child has been formally matched with foster carers with a view to them providing care for the child throughout their childhood.

**d) If so, what was the nature and extent of that responsibility?**

Please see Section 1.4 (i)(b) & (c) above.

**e) If the local authority had no legal responsibility for children in its care, where or with whom did legal responsibility lie?**

Please see Section 1.4(i)(a) above.

**Present**

**f) With reference to the present position, are the answers to any of the above questions different?**

No.

**g) If so, please give details.**

Not applicable.

**(ii) Foster carers**

**Past**

**a) Did the foster carer have any separate legal responsibility (separate from the local authority) for children in his or her care?**

The foster carer had at least derived legal responsibility as a consequence of their status as a foster carer. Please see Section 1.4(i)(c) for further details.

In addition to the general duty outlined above, foster carers also enter into a contract with the local authority and are required to comply with those contractual terms.

**b) If so, what was the nature of that responsibility?**

See Section 1.3 generally and Section 1.4 above.

In addition, as the persons with day to day control of the child, in later years Section 5 of the Children (Scotland) Act 1995, made it the responsibility of the foster carer to do whatever was reasonable in all the circumstances to safeguard the child's health, development and welfare; and in fulfilling that responsibility, foster carers could also give consent to any surgical, medical or dental treatment or procedure where the child was not able to give such consent on his own behalf; and it was not within the knowledge of the person that a parent of the child would refuse to give the consent in question. The Adoption and Children (Scotland) Act 2007 most recently introduced the Permanence Order which allowed foster carers to be granted parental rights and responsibilities in respect of any child in their care where the appropriate criteria were met.

**Present****c) With reference to the present position, are the answers to either of the above questions different?**

No.

**d) If so, please give details.**

Not applicable.

**1.5 Ethos****Past****a) What did the local authority see as its function, ethos and/or objective terms of the foster care service it provided for children?**

The Fostering of Children (Scotland) Regulations 1996 encapsulated the function of the Fostering Service within North Ayrshire. The fundamental ethos of the Fostering Service was to provide nurturing, safe, family-based care for children and young people affected by trauma, abuse and neglect.

The Fostering Service was also underpinned by the values and standards set out within the National Care Standards – Foster Care and Family Placement Services (revised March 2005) particularly Standards 6, 11 and 12.

Said 1996 Regulations created multiple changes in the provision of Fostering Services including the introduction of foster carer service agreements that



outlined specific conditions that approved foster carers would be required to abide by.

In North Ayrshire, the principles outlined in the Fostering Procedures (2007) underpinned the development of the Fostering Service objectives.

As such, the local authority required to provide a safe environment and one which helped children and young people have their educational, emotional and developmental needs met and which took account of their traumatic/damaging life experiences and missed opportunities. In terms of the Children (Scotland) Act 1995, there required to be opportunities for children and young people to maintain appropriate contact with their birth families, provided it was in their interests. In placing a child or young person in foster care, the local authority required to take into account the religious, cultural and ethical factors in children and young people's backgrounds. The views of the children and young people, and of their families, also had to be taken into account.

In recruiting, assessing, supporting, monitoring and training foster carers to undertake this role, the local authority had to be mindful of the need to keep children and young people safe from harm and abuse.

- b) What did the local authority see as the foster carer's function, ethos and/or objective in terms of the service that the foster carer provided to children placed with him or her?**

This can be most simply defined as the provision of a home and family setting and environment. This would provide care and nurture while promoting wellbeing and holistic support and assistance as per the requirements of each individual child as detailed within the Child Assessment and Plan. Each foster carer had to work in conjunction with staff members such as the social worker for the child, their supervising social worker, NHS and Education staff, and adhere to the child's Care Plan and the SHANARRI (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included) wellbeing indicators within the assessment, following the introduction of same.

- c) Were there changes over time in terms of what the local authority saw as its function, ethos and/or objective in terms of the foster care service it provided for children?**

Numerous influences and developments have occurred over time nationally in relation to the provision of foster care and good child care practice. Within North Ayrshire the fundamental ethos, objectives and function have consistently been to provide vulnerable children with a safe and supportive substitute family environment, where it has been assessed as unsafe for them to remain at home. It is however, accurate to reflect that greater developments have occurred in how the Fostering Service functions, as a consequence of external influences (developments in legislation and regulations, that placed increased responsibilities upon local authorities in terms of caring for vulnerable children placed in foster care). Internal changes have also been made to service delivery

and design (such as the creation of the Fostering First and Fostering Xtra schemes).

**d) If so, what were the changes and when and why did they come into effect?**

As well as that noted in Section 1.5 (c) above, the information below, obtained from a Social Work Committee minute dated 11<sup>th</sup> March 1998, identifies The North Ayrshire Council's efforts to prioritise the support of Looked After Children, by funding input from the advocacy service Who Cares? Scotland and the appointment of a Children's Rights Officer. The information below suggests the local authority at this time, recognised the need to hear children's voices and views on matters pertaining to their care and protection. This also allowed children and young people to influence service provision.

*"Children's Rights Officer*

*Submitted report by the Director of Social Work regarding the appointment of a Children's Rights Officer who will provide independent advocacy and advice as required to children living away from home, especially those "looked after" by a local authority, to ensure compliance with recommendation 8 of the Children's Safeguard Review."*

Practice within The North Ayrshire Council Fostering Service was also influenced by national research and findings. The Director of Social Work submitted a report on the findings of a Scottish Office Report entitled "Fostering Good Relations - A Study of Foster Care and Foster Carers in Scotland" undertaken by the Universities of Edinburgh and Strathclyde in 1997. The North Ayrshire Council subsequently implemented improvements in terms of training, for both staff and foster carers and relaunched a recruitment campaign alongside clarification of social work roles within the Fostering Service.

**e) Were there changes over time in terms of what the local authority saw as the foster carer's function, ethos and/or objective in terms of the service that the foster carer provided to children placed with him or her?**

As the Fostering Service became more specialised over time, this logically impacted upon both service and legal expectations placed upon foster carers in terms of their role. This manifested in increased expectations on foster carers in relation to their skill set and knowledge base.

In particular, there were clearer expectations of foster carers responsibility in relation to recording presenting behaviour of children. There was increased understanding of the need for multi-agency working and acknowledgement of the impact of early life trauma. Foster carers were also encouraged to develop closer working relationships with birth family members of children placed in their care.

**f) If so, what were the changes and when and why did they come into effect?**

Please see Section 1.5 (e) above.



2010 heralded the introduction of the Fostering First and Fostering Xtra schemes locally (rolled out over the course of 2011) which led to increased recognition of the importance of training (Fostering First carers had to complete 4 days a year and Xtra carers 6 days a year), with a focus on understanding why children presented with the behaviour they did and promote a nurture-based approach to care giving.

## Present

- g) **With reference to the present position, are the answers to any of the above questions different?**

No.

- h) **If so, please give details.**

Not applicable.

## 1.6 Numbers

- (i) **Local Authority**

### Past

- a) **How many children did the local authority accommodate at a time in foster care and in how many placements?**

It has not been possible to collate information in relation to the number of children accommodated by The North Ayrshire Council prior to 2006.

From the information available the following statistics have been gathered:

*Table 1 – Number of children accommodated (looked after in foster care) as at the end of reporting year (31<sup>st</sup> March for 2006-2009 and 31<sup>st</sup> July thereafter)*

	Children in Foster Care	Foster Care Placements	Children in Internal Foster Care Placements	Internal Foster Care Placements	Children in External Foster Care	External Foster Care Placements
2006	90	Not Available	Not Available	Not Available	Not Available	Not Available
2007	95	N/A	69	N/A	26	N/A
2008	83	N/A	44	N/A	39	N/A
2009	99	59	52	44	47	16
2010	111	72	70	54	41	21
2011	120	83	94	69	26	18
2012	111	80	93	67	18	14
2013	132	82	107	67	25	17
2014	161	94	130	77	31	18

Source: Carefirst and Scottish Government looked after survey

**b) How many foster carers were approved/registered by the local authority at any given time?**

The number of foster carers approved/registered by the local authority during the years referred to is shown in Table 2 below.

**How many placements for children did this represent?**

It has not been possible from the information held to confirm how many placements for children this represented.

**How many placements were in use at any given time?**

It has not been possible to collate information in relation to the number of foster placements in use prior to 2006.

The total number of children accommodated from 2006 - 2014 is recorded in Table 1 above.

**c) If foster carers were approved/registered by the local authority as providing only specific types of care — e.g. respite care, short-term foster care, long-term foster care — please provide details of the categories and the numbers of placements in each.**

*Table 2 – Number of carers approved to provide foster care, by type of care (as at 31<sup>st</sup> December each calendar year)*

	2008	2009	2010	2011	2012	2013	2014
<b>Short term care only</b>	34	38	48	67	54		
<b>Long term care only</b>	10	6	9	13	23		
<b>Pre Adoptive Placement Care</b>	3	5			5	2	5
<b>Respite care</b>	9	12	10	11	11	8	7
<b>Private foster carers</b>							
<b>Other</b>	27	24	24	18	13	17	18
<b>Blanket</b>							
<b>Temporary and Permanent</b>							
<b>Temporary only</b>						65	79
<b>Permanent only</b>						30	4
<b>Other</b>							
<b>Long-term placements only</b>							
<b>Short breaks</b>							
<b>Total</b>	<b>83</b>	<b>85</b>	<b>91</b>	<b>109</b>	<b>106</b>	<b>122</b>	<b>113</b>

Source: Annual Fostering return to Care Inspectorate



**d) Please provide details of any material changes in numbers of children, placements or foster carers, and the reasons for those changes?**

The information in Table 1 illustrates material changes in numbers of children, foster care placements and foster carers over the time frame 2006-2014. It has not been possible to locate figures for prior to 2006. Changes can be viewed within the following context:

In the Scottish Index of Multiple Deprivation 2009 (SIMD), North Ayrshire was among 5 local authorities with the largest proportion of their data zones in the 15% most deprived zones. The percentage of children under 18 was 21.3% compared to a national average of 20.5%. Twenty nine percent of families were headed up by a single parent, compared to 27% in comparator authorities and 25% in Scotland as a whole.

North Ayrshire had particular challenges, such as the high incidence of domestic abuse (taken from numbers of police referrals), substance misuse, health related issues and unemployment. The Scottish Looked After Children statistics (2011) published in February 2012 showed the North Ayrshire had a greater percentage of its 0-18 population looked after, at 2.0/1,000 than the national average of 1.5. This trend is reflected in the numbers of children accommodated as seen in the table above.

From 1993 onwards, it was recognised nationally that the number of children looked after by foster carers had increased every year, whereas the number in residential schools and children's units remained relatively stable. This trend occurred at a time when the general child population was decreasing therefore the proportion of Looked After Children in the child population rose at a greater rate.

Parental substance misuse was recognised as the main reason why children under 12 years of age were accommodated and the significant impact on a child's physical, social and emotional development, as well as their parent's substance misuse made rehabilitation very difficult. The number of children in North Ayrshire requiring permanent placements therefore increased accordingly.

In 2010, a report was considered by the Executive Committee of The North Ayrshire Council which outlined the increasing need for foster placements in North Ayrshire in order to improve the outcomes for children accommodated by the authority.

In response to this report, significant additional funding was invested in The North Ayrshire Council Fostering Service; the objective of which was to increase the recruitment of internal foster carers and correspondingly bring improvements in the terms and conditions attached to this role. This aimed to improve outcomes for vulnerable children who needed to be accommodated by providing more placements within their local community. Further, it would also reduce the local authority's dependence on the independent sector for purchased foster placements and create substantial savings which could be re-invested to develop local services.

This heralded the implementation of a new professional fostering scheme which emphasised the training, support and development of foster carers. A main aim of this scheme was also to target children under 12 years of age who were living in residential care and whose needs would be better met in foster placements. This was in keeping with research which showed that when children under 12 years old need to be accommodated, they were assisted to achieve better outcomes if they were placed in foster care. It also aligned closely with the objectives of the Strategic Review of Residential Children's Services and Fostering Services approved by North Ayrshire Social Services Committee in 2006.

For 2010-2011, a target was set to reduce the number of children placed in independent sector placements to 40, this was surpassed with an average reduction to 34. This was achieved through increasing the number and range of internal foster carers and the recruitment of carers from the independent sector. Therefore, from 2010 onwards, the number of children placed with North Ayrshire foster carers increased in line with a corresponding decrease in purchased placements from the independent and voluntary sector.

From 2010 onwards, The North Ayrshire Council Fostering Service increased the potential to ensure that an internal foster placement was sourced as a first choice if children had to be accommodated, as opposed to being accommodated within one of the children's houses. Between 2010-2011, 6 young people transferred to a foster placement reducing the number of children under 12 in residential care. This practice has continued within the Fostering Service to date.

Although the aim of the Service was to purchase no new foster placements from the independent sector, The North Ayrshire Council Fostering Service continued to fund a small number of placements where it was in the child's best interest to remain with that carer due to the length of time placed and strength of relationship. In addition, new individual agreements/contracts were secured which offered best value and stability for the child.

**e) How many children in total, were accommodated by the local authority (whether in foster care or otherwise)?**

It has not been possible to confirm the number of children accommodated by the local authority prior to 2006 as figures were not recorded. There is documentation in the form of a committee report which indicates 51 children were accommodated within temporary foster care in 1998.



*Table 3 - Number of children accommodated (looked after in foster care or in a residential placement) as at end of reporting year (31<sup>st</sup> March for 2006-2009 and 31<sup>st</sup> July thereafter).*

	<b>Children in Foster Care</b>	<b>Children in Residential Care</b>	<b>Total Number of Children Accommodated</b>
<b>2006</b>	90	68	158
<b>2007</b>	95	62	157
<b>2008</b>	83	59	142
<b>2009</b>	99	60	159
<b>2010</b>	111	62	173
<b>2011</b>	120	57	177
<b>2012</b>	111	61	172
<b>2013</b>	132	65	197
<b>2014</b>	161	51	212

Source: CareFirst and Scottish Government Children Looked After Survey

- f) **In general terms, was the main service provided by the local authority the provision of residential care for children in establishments, or was it the provision of foster care?**

Table 3 shows that from 2006 – 2014 there were more children in foster care than in residential care, within North Ayrshire.

Prior to 2006 this information is not recorded.

#### **Present**

- g) **With reference to the present position, are the answers to any of the above questions different?**

Yes.

- h) **If so, please give details.**

Please refer to SD 2 (Looked After Statistics).

The North Ayrshire Council Fostering Service continues to operate the same fostering schemes and recruit its own foster carers. There has been no significant change in numbers of carers since 2014 apart from a couple of deviations which reflect an ageing demographic for foster carers and as well as alterations within practice standards. There has continued to be a high number of children locally that require to be accommodated in foster care. The objective of The North Ayrshire Council Fostering Service continues to be on increasing available internal foster placements, developing practice standards and reducing purchased placements from the independent and voluntary sector. By end

August 2019, there was a total of 12 children in 11 placements purchased from external fostering providers.

Within North Ayrshire, there has been a material increase of 84.5% in relation to children placed in internal foster care placements between 2006 – August 2019. There is a corresponding material decrease of 76.5% in children placed in external purchased foster placements between 2008 – August 2019.

There has been an increase in the number of children placed in kinship care in line with changes to policy, legislative drivers and culture within Scotland. From 2014 – 2019, this represented a 39% increase. Should this not have been the case, it can be assumed that the numbers of children within foster care would have been significantly higher.

Since 2014, there has been an increase in the number of children placed with North Ayrshire Council foster carers. However, the number of children placed in residential care has remained broadly consistent over the same time period.

The most significant increase (in placement numbers) has been within the area of kinship care.

## **1.7 Children's Background/Experience**

### **Past**

#### **a) Did the children placed in foster care generally have a shared background and/or shared experiences?**

From the information gathered from reading children and foster carers files, there is in general a shared history for children accommodated; specifically, their common experiences of trauma, abuse and/or neglect. This may have included exposure to parental alcohol/ substance misuse, sexual abuse, failure to thrive, physical abuse, abandonment, parental mental health concerns, death or ill health of their primary carer and those children deemed to be out with parental control. It is of note that these children were almost all from a white Scottish background where English was their first and only language.

#### **b) Were children admitted into the care of the local authority, or were they admitted into the care of particular foster carers?**

All children accommodated from 1996 were admitted into the care of the local authority.



**c) Who placed children with the local authority?**

Children were placed with the local authority by the Children's Hearing, Sheriff Court or at the request/agreement of their parents or any person with parental rights and responsibilities.

**d) From 15 April 1971 (the date on which the Children's Hearing system was introduced), did the local authority receive children mainly through the Children's Hearing system?**

This information was not recorded prior to 2008. The figures from 2008 to 2014 are provided in Table 4 below. The figures would tend to suggest that the Children's Hearing system was not predominantly responsible for the placement of children.

*Table 4: Placement of children*

	2008	2009	2010	2011	2012	2013	2014
New Placements in year	132	45	45	63	96	121	69
Of those, the number initially placed by the Children's Hearing system	20	14	14	19	61	10	26

Care Inspectorate returns information (calendar years)

**e) If not, generally how did children come to be admitted into the care of the local authority?**

Between 1996 and 2014, whilst there are examples of children becoming accommodated via the Children's Hearing System, the predominant route into local authority care would appear to be voluntary arrangements between parents and the local authority (s15 Social Work (Scotland) Act 1968 and s25 Children (Scotland) Act 1995) A significant percentage of these children subsequently became subject to statutory measures. In addition, a small percentage of children were accommodated through Child Protection Orders and emergency police measures.

**f) How long did children typically remain in the care of the local authority?**

From the information gathered from files, we have been unable to determine the 'typical' length of time a child remained in the care of the local authority. However, case records indicate that children were accommodated for anything from 3 days to the duration of their childhood dependent upon their care planning needs and individual circumstances (including the ability of parents or carers to safely resume care).

**g) In respect of children who were admitted into the care of the local authority, who made the decision as to whether they should be placed in foster care?**

When an enquiry was received relative to a child who required to be accommodated, the practice within The North Ayrshire Council was that, in the first instance, Social Services staff would give full consideration to the placement of the child with family members. This had to be explored at the point of admission. If there were no available or appropriate family members to assume care, the next option was to attempt to source a suitable foster placement for the child, taking account of age, gender, child's presenting situation, any additional needs and consideration of any available foster carers, in terms of matching. Residential care would be progressed as a 'last resort'. In general, the final decision regarding the child's placement was made by a Senior Social Work Manager.

**h) If the decision was made by the local authority, what criteria were applied?**

From files read there has not been overt reference to a specific criterion applied to determine whether a child was placed in foster care beyond consideration of their needs and the resources available to the local authority at any given time.

What is evident is the increased focus on placing children under 12 in family placements. This is evidenced by the increase in number of internally provided placements between 2009-2016. This underpinned the development of the Fostering Service in North Ayrshire.

Since 2011, the re-design of the Fostering Service within North Ayrshire led to a targeted recruitment campaign of foster carers willing and able to provide care to older children.

**i) Were children moved between different foster care placements?**

Information from file reading indicates that children were, on occasions, moved between different foster care placements.

From 2008-2014, 119 children moved from one foster placement to another foster placement (of a total of 441 children looked after in foster care).

From 2014-2019, 109 children moved from one foster placement to another foster placement (of a total of 398 children looked after in foster care).

**j) If so, in what circumstances?**

From file review, this was for various reasons, including: placement disruption, death/ill health of a carer, complaints relating to practice standards, allegations relating to safeguarding, resignation of carer, sibling separation/reunion, location and views and wishes of the child. In addition, some moves were dictated by the



evolving care needs of the children, for example moving from emergency to short term placements or from short term to permanent placements.

**k) Generally did children typically stay in one, or more than one, foster care placement?**

Prior to 2008, relevant statistics were not formally recorded although from files read, a significant number of children typically stayed in more than one foster placement. Whilst this may be viewed, *prima facie*, as being poor practice, there are many reasons for a move of foster placement, for example, moving to an adoptive placement, or to kinship care, emergency to short term/temporary or onto long term/permanence, which could all be considered positive destinations for children and young people.

**l) What was the process for review of children's continued residence in foster care, in terms of whether they continued to require to be (a) in foster care and/or (b) in that particular placement?**

From files read there is evidence that children's continued residence in foster care was subject to regular formal review and care planning. This review considered all aspects of the child's needs including their physical/emotional/social development, health, education, birth family contact arrangements, child's views and continued appropriateness of the placement. Reviews also coordinated and formally recorded decisions regarding a child's future. From 1996, The North Ayrshire Council followed the procedures and guidance laid down by Strathclyde Regional Council, as adapted for use locally. With the introduction of Getting It Right For Every Child (GIRFEC) in 2006, its associated principles and values were incorporated into the process for reviewing Looked After Children and paperwork was updated accordingly. This was formally captured within 'Altogether Better Care' Looked After Procedures, North Ayrshire Procedures in respect of Looked After Children in 2013.

Following the introduction of the Looked After Children (Scotland) Regulations 2009, Regulation 38 imposed a duty on the local authority to review a child's case within three working days of an emergency placement having been made to determine whether the placement continues to be in the child's best interests.

Regulation 39 concerns the extension of an emergency placement with carers and specifies that before the expiry of six weeks after the end of the emergency three working day period, the local authority must carry out a review of the child's case to determine whether the placement continues to be in the child's best interests.

Regulation 45 deals with reviews of a child's case and extends the requirement for reviews. Formal Looked After Children's Reviews must now take place as follows (after the initial post-accommodation meeting):

- a first review within six weeks of placement (reinforcing the requirement stated in Regulation 39)

- a second review within three months from the date of a first review; and
- thereafter subsequent reviews within six months of the date of the previous review.

**m) When children left foster care, what was the process for discharge?**

When children were discharged from foster care on a planned basis, a child care planning meeting would coordinate this move.

Discharge Looked After Reviews were held retrospectively on the occasion when children were discharged from foster care on an unplanned basis, such as when parental consent was withdrawn, or due to decisions made by Courts or the Children's Hearing.

**n) What support was offered for children when they left foster care?**

For children returning to parental care, support would be provided on an ongoing basis by the child's social worker. Where assessed as being required, additional intensive targeted supports would also be available. This could include family support, support services for the young person and support provided by universal services. Throughcare and Aftercare services were also available if the young person had been accommodated at school leaving date.

Since 2010, The North Ayrshire Council have had a housing protocol in place to support young people who were care experienced to obtain a tenancy.

**o) What information was sought by the local authority about what children leaving foster care planned to go on to do?**

The North Ayrshire Council reported to the Scottish Government in relation to the number of care experienced young people receiving aftercare who were in Education/Training or Employment.

Please see SD 3 (Aftercare Destinations) for further details. This information was not collated prior to 2005.

**p) Was such information retained and updated?**

This information has been retained and updated annually since 2006 for reporting to the Scottish Government.

Please see SD 3 (Aftercare Destinations) for further details.



**q) What was provided in terms of after-care for children/young people once they left foster care?**

Historically, after-care provision for children and young people in North Ayrshire was provided via Throughcare Services. Young people leaving foster and residential care received:

- Financial support
- Educational/training/employment support
- Legal advice
- Emotional & practical support
- Advocacy
- Tenancy support
- Independent living support.

**Present**

**r) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**s) If so, please give details.**

While many children will have shared experiences and backgrounds, ever-increasing numbers of children have experienced exposure to parental substance misuse and domestic abuse. In addition, children from more ethnically diverse backgrounds have also been placed in foster care, specifically unaccompanied asylum-seeking children, children from the local travelling communities and children of Romany heritage. As such, this increase in ethnic diversity has also led to an increase in diversity of religious affiliation. Furthermore, the Fostering Service has also reflected societal and legislative changes in relation to the profile of foster carers within the Service, where single carers are now more prevalent than ever. The North Ayrshire Council Fostering Service also seeks to recruit foster parents in same sex relationships.

Since 2014, the criteria for placements within the Fostering Service has continued to be needs and resource led while continuing to, where possible, match older children with foster carers who have the requisite skill base.

Following the introduction of the Children and Young People (Scotland) Act 2014, young people became eligible for Throughcare Services where they were looked after away from home on or beyond their 16<sup>th</sup> birthday. This Act also introduced legislation in respect of Continuing Care for children from age 16.

Please refer to North Ayrshire Health and Social Care Partnership Continuing Care and Aftercare Policy dated April 2018 (SD 4, Continuing Care / After Care Policy).

When considering the basis on which children have more recently been accommodated by the local authority, the following Table is referred to:

*Table 5: CareFirst information (per calendar year) showing the basis on which children were accommodated for the relevant period.*

Legal Reasons at Admission/Year Admitted	Child Protection Measure	Comp away home (Condition of Residence)	Sup from home (Condition of Residence)	Int Sup away home (Condition of Residence)	Comp Order from Reason	Other Legal Reason	S25 Care Duty of Local Authority	Total
2015		1					27	28
2016	3			8			21	32
2017	3			1			16	20
2018	9			1			16	26
2019	18	1		3		3	18	43

## **1.8 Local Authority staff and foster carers**

### **(i) Local authority**

#### **Past**

#### **a) How many people were employed by the local authority who had some responsibility for foster care services for children?**

From 1<sup>st</sup> April 1996, The North Ayrshire Council came into being and a 'Fostering Team' was established. This team was based within the authority headquarters at Elliott House, Irvine and comprised mainly of social workers responsible for the recruitment, assessment, approval and support to foster carers within North Ayrshire. However, at that time there were only approximately three members of staff with one Assistant Principal Officer, who managed the team. Over subsequent years, this team increased in numbers until there were around six members of staff.

Originally, the fieldwork staff members from the Area Social Work Team also completed assessments on foster carers and supported children and young people within foster placements, until with the increased numbers in foster care and changes to legislation, a fully dedicated team was established, which remains in place to date.

#### **b) How many people were employed by the local authority at any one time, who had some responsibility for foster care services for children?**

As above, there was originally one 'Fostering Team' who worked within the area of fostering, with approximately three members of staff. Those staff members



were within the operational remit of the Social Work Service and its Director/ Heads of Service.

At that time (approximately 1996) social workers from the fieldwork area social work teams also completed assessments on prospective foster carers and undertook support to foster carers, as well as responsibility for the children and young people in their care. There is no specific information held which would quantify the exact numbers of staff involved. However, in terms of management, the Assistant Principal Officer and Principal Officer had a lead role in terms of foster care services for children.

Over the subsequent years, this 'Fostering Team' increased in numbers. In 2005/6 during inspections undertaken by the Care Inspectorate, the numbers in the 'Fostering Team' were as follows:-

*Table 6 Full time equivalent posts in Fostering Team by year*

2005/6	Number of Full Time Equivalent Posts	8.9
2008/9	Number of Full Time Equivalent Posts	10.5
2009/10	Number of Full Time Equivalent Posts	16.5
2010/11	Number of Full Time Equivalent Posts	18.6
2011/12	Number of Full Time Equivalent Posts	20
2012/13	Number of Full Time Equivalent Posts	18
2013/14	Number of Full Time Equivalent Posts	12.6
2014/15	Number of Full Time Equivalent Posts	15
2015/16	Number of Full Time Equivalent Posts	11.95
2016/17	Number of Full Time Equivalent Posts	13.10
2017/18	Number of Full Time Equivalent Posts	13.21

**c) What roles and responsibilities did such staff have? Please specify in which roles staff met with children and foster carers.**

As stated, as well as the small team of approximately three members of staff, whose primary role and remit was to support foster carers, fieldwork area team social work staff were also involved with foster carers and children and young people.

In SD 5 (Social Worker Job Description) the Job Description and Role Profile details the role and remit of relevant staff. The North Ayrshire Council used a

generic social worker post job description and role profile. To work within the 'Fostering Team', qualified social workers were required to have experience within a fieldwork area team for a period before they would be eligible to apply for and work within this team.

Staff who worked within the 'Fostering Team' had contact with both children in foster care and with foster carers. In addition, social workers, who worked within the fieldwork area team also had contact with foster carers and children, as they were the social workers responsible for the children in placement.

Over the last 15 years the fostering team increased in size, until it became the specialist fostering team that exists to date.

**d) In relation to each role what experience/qualifications did such staff have?**

Each of these roles (social workers within the Fostering Team and within fieldwork area teams) required to be carried out by a qualified social worker. Post holders required to have both the qualifications relevant to the post (incorporating theoretical knowledge) as well as skills and practical expertise, gained via operational placements. The required qualifications have been revised over the years, from the 1970s 'Certificate of Qualification in Social Work' (CQSW) to the current degree standard.

**e) When were fostering panels set up? What was their purpose and remit?**

In 1986/87 Strathclyde Regional Council established Fostering Panels in response to the Boarding-Out and Fostering of Children (Scotland) Regulations, 1985. These were subsequently amended and adapted by the guidance provided within the Children (Scotland) Act, 1995 and the Fostering of Children (Scotland) Regulations, 1996. On the dissolution of Strathclyde Regional Council in 1996 and the formation of The North Ayrshire Council as a local authority, the Fostering Panel continued in a similar format as under Strathclyde Regional Council in terms of purpose and remit.

North Ayrshire Council's Fostering Panel was set up under Regulation 17 of The Looked After Children (Scotland) Regulations 2009.

The purpose and remit of Fostering Panels generally is to make recommendations to the Agency Decision Maker (Head of Service) in relation to the approval and remit (for example, in relation to age, gender and number of children they may foster) of prospective foster carers.

The Fostering Panel can also give advice on local policy and procedures and act as a specialist forum for debating policy and practice issues.

The Fostering Panel will give advice and monitor the range of foster carers being approved, in comparison to the locally assessed needs of children and monitor how quickly applications are brought to the Fostering Panel.



The Fostering Panel is independent of the operational Social Work service and has a crucial role in scrutinising the recommendations made. The Fostering Panel may comment on the quality of preparation for applicants, as well as the quality of the reports presented, including by assessing social workers.

**f) How were fostering panels constituted? What skills and experience were the members required to have?**

As stated above, North Ayrshire Council's Fostering Panel was established under Regulation 17 of the Looked After Children (Scotland) Regulations 2009.

National Standard 14 – Fostering Panels and the Fostering Service's Decision Maker is also relevant in this regard

The North Ayrshire Council, as per applicable legislation, is responsible for recruiting members of the Fostering Panel, identifying a Chairperson and ensuring that all Panel Members have the relevant skills and experience to carry out their duties.

From 1996 until 2014, there is evidence from reading Fostering Panel minutes that the membership consisted of social work senior managers, legal advisor, medical advisor, educational psychologist, independent panel members and representatives from third sector organisations, e.g. Barnardos and Fostering Network. Foster carers have also been panel members.

Within North Ayrshire there was a commitment to ensuring that there was a gender balance and diversity of backgrounds and experience within the Fostering Panel membership to reflect the locality area.

With regards to the Chair of the Fostering Panel, it was historically an elected member who adopted this role. In 2007, the role of Chair was taken over by a Senior Social Work Manager.

In relation to the skills and experiences required of panel members, they were expected to have a working understanding of the impact of trauma and abuse on children and the qualities and skills substitute carers would require to possess in order to meet these needs. More recently, they must also have been subject to a satisfactory Disclosure check.

Panel members have generally been offered training and skills development and have had the opportunity to attend joint training with staff within the specialist fostering team.

**Present**

**g) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**h) If so, please give details.**

North Ayrshire continues to have a specialist fostering team; the Service now comprises 10 social workers and 1 social work assistant, with one Team Manager, reporting to the Senior Manager, Children & Families. The Service now sits within the North Ayrshire Health & Social Care Partnership, which was established in 2015.

Supervising social workers (within the Fostering Service) continue to have contact with children and young people in placement however their main remit is that of supervising foster carers.

The role and remit of fieldwork social workers, within the area teams, has altered in that they no longer have any involvement in terms of assessment of and support specifically to foster carers. Their responsibility is for the children and young people in the placement.

Social workers continue to require an appropriate qualification in Social Work, as well as the knowledge, experience and skill set required for the post. Supervising social workers (to foster carers) within the Service continue to be encouraged and supported to attend Adoption and Fostering Alliance Scotland's post-graduate course that covers, amongst other subjects, neuroscience, attachment and trauma-related responses to Looked After Children.

**(ii) Foster carers****Past****a) How were foster carers identified and approved/registered?**

Over the years, the Fostering Service has identified potential foster carers through local targeted recruitment campaigns. Individuals who were interested in becoming foster carers could self-refer to the Service. National campaigns such as "Fostering Fortnight" were also a vehicle for recruitment. Following initial screening and preparation, a decision was made with regards to an applicant's suitability to progress to a fostering assessment. The fostering assessment was carried out by suitably qualified personnel.

After the completion of the fostering assessment and 'boarding out' checks, applicants were presented at the Fostering Panel for consideration for approval. The recommendation of the Fostering Panel was forwarded to the Agency Decision Maker for the final decision.

An example of targeted schemes would be recruitment for IMPACCT carers, specifically to provide shared care for children within the community who had additional support needs. The Fostering Xtra scheme recruited foster carers who had skills to meet the needs of children over 10 years of age.



**b) What experience and/or qualifications, if any, did a foster carer require to have?**

In the 1970s, there were no specific requirements for prospective foster carers to have previous qualifications, however emphasis was placed on applicants having previous parenting experience. As knowledge and understanding of the impact of trauma and abuse developed the expectations of the Fostering Service with regards to the applicant's skills, knowledge and experience became more stringent.

From review of files and relevant documentation, there was continuous reference to the use of the BAAF Form F assessment tool across the time period from 1996 until 2014. The Form F developed into a competence-based format to better reflect the complexities of the needs of children and the fostering task. It was desirable for applicants to have a background in working with children and young people.

Examples of North Ayrshire fostering schemes where specific experience and/or qualifications were essential include:

- IMPACCT carers who required to have previous experience of supporting children with additional support needs; and
- Fostering Xtra scheme applicants were required to have worked within a childcare setting and have relevant qualifications.

**c) What checks were carried out in relation to a prospective foster carer, including criminal record checks, references and interviews?**

From files read, there is evidence that 'boarding out' checks were carried out. These consisted of criminal records checks, health board checks and local authority checks. In some earlier files there is evidence of medical information however this is more consistently noted in recent files, where it is often accompanied by a report by the appointed Medical Advisor to the Fostering Panel. There is evidence that references were requested and provided. In older files these appeared to be predominantly from referees who knew the applicants as a couple.

Since 2005, there is more evidence that all checks (including interviews with referees for each individual applicant) were undertaken as part of the assessment process and said information retained within the foster carer's case file.

**d) What checks were carried out in relation to other persons residing with the prospective foster carer, including criminal record checks, references and interviews?**

There is evidence of criminal checks and local authority checks (including out-with authority checks for carers who resided in other local authority areas) being

undertaken in respect of related family members residing within the foster household.

In earlier files it has not been explicitly recorded that references and/or interviews were carried out in relation to other persons residing with prospective foster carers. This became more prevalent latterly.

**e) What checks were carried out in relation to other family members and friends of a prospective foster carer including criminal record checks, references and interviews?**

Historically, there appeared to be little evidence of 'boarding out' checks being completed in relation to family members and friends not within the same household as the potential carer. There is limited evidence that 'boarding out' checks were completed in relation to, for example, babysitters for children in placement (see also response at Part C generally).

**f) To what extent, if any, were the checks referred to at paras (c) to (e) above reviewed? If so, how frequently and what checks were done? If not, why not?**

Predominantly health and police checks were reviewed at the Fostering Panel in respect of the approved foster carers. This was routinely carried out when foster carers attended Fostering Panel to amend their registration. There is little historical evidence that checks in relation to family members or friends were routinely reviewed.

See Section 2.2 (i)(f) for further information.

**g) What checks were carried out by the local authority of the available accommodation? How frequently were these carried out? Were they repeated? If so, how frequently? If not, why not?**

In respect of historical files read, there is evidence that accommodation was considered for its general suitability in relation to a child being placed. There is evidence within the earliest files held by The North Ayrshire Council of foster children sharing with birth children or multiple children being placed within the same bedroom. Post 2005, there was a greater emphasis on health and safety assessments of the property and bedroom availability for a child.

Historically, there is little evidence of health and safety checks being updated. In more recent years these checks have become standard for review at Fostering Panel and Foster Carer Reviews.



- h) Was the gender of the foster carer of any relevance to approval as a foster carer or in relation to the placement of a child with a particular carer? If so, why?**

In more recent times, there is no evidence to indicate that the gender of the foster carer had any bearing on their approval status or in relation to the placement of a child with a particular carer.

- i) Was the gender of other persons (including children) residing in the same house of any relevance to the approval of a foster carer or to the placement of a child with a carer? If so, why?**

In the early 1990s, there appeared to be a shift whereby consideration was given to the gender of children already within the carer's home when placing a child. This appeared to relate primarily to circumstances in which children placed in foster placements were known to be sharing a room with the carer's birth child or with another child in placement.

- j) Were foster carers required to provide any services for children in their care beyond accommodating them? If so, what were they?**

There is evidence in files from 1990 until 2003 that the expectation of the Fostering Service was that foster carers would facilitate the child's contact with their birth family (parents, siblings and/or extended family) within the foster carer's home without social work supervision.

- k) Did children work manually in the placement or externally (e.g. farming work or other labour), or both? If so, did that change at any point? If so, why?**

From 1996 onwards there is no information to indicate that children placed in foster care carried out manual work.

- l) Were fostering agreements entered into? If so, were these in a prescribed form or created on an ad hoc basis?**

From reading files of local foster carers between 1970 and the late 1980s, there is no evidence of fostering agreements/contracts within the files.

There is sporadic evidence of the use of contracts in the 1990s until the early 2000s. However from 2003, there is evidence of the use of contracts between the local authority and foster carers. The specific terms of such contracts varied, according to the differing fostering schemes in operation from time to time.

**Present**

**m) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**n) If so, please give details.**

The Fostering Service now has a clear recruitment strategy in place. This is a targeted marketing strategy with a significant emphasis on social media in order to attract a wider and more diverse pool of potential carers, to reflect the needs of children requiring placements.

There is a continued focus on competence-based assessment in line with current knowledge and understanding. The Fostering Service has also integrated the following tools/theories into the BAAF Form F framework:

- Secure Base Model
- Attachment Theory
- Critical Capacities
- Nurture Model

Currently the assessment process (prior to approval as a foster carer) incorporates:-

- Developments made in neuroscience
- How early life trauma impacts upon brain development and links to attachment theory
- Recognition of the impact of adverse childhood experiences
- An ever-increasing awareness of the issues prevalent for trauma-impacted children.

The Fostering Service's culture continues to place ever-greater emphasis on nurture-based responses to children in foster care. These themes are an integral part of the fostering assessments in North Ayrshire.

There is also greater awareness of the impact of secondary trauma on foster carers and their birth families and the need for fostering assessments to reflect carers vulnerabilities and resilience.

Since the introduction of the PVG scheme in 2011, all approved foster carers are subject to this and have a duty to advise the Fostering Service or PVG scheme of any changes to their status. All foster carers undergo comprehensive medicals and the information from this is considered by the Agency Medical Advisor prior to a recommendation for approval by the Fostering Panel.

Where any adult (related or otherwise) is residing within the fostering household Disclosure Scotland checks are completed and updated every three years. The



individual would also be included in the assessment process, or if they join the family following approval they would be interviewed, and an updated assessment completed if relevant.

Since 2016, Disclosure Scotland no longer process checks for family members or friends living out with the fostering household. Where the Fostering Service is informed of family members or friends who are involved in the care of any child placed, the expectation would be that they would be interviewed by the supervising social worker and appropriate checks sought.

Once foster carers are registered with PVG Scheme no active update requires to be sought by the Fostering Service. The Fostering Service is notified where foster carers are considered no longer suitable members of the Scheme. In relation to adult family members, Disclosure checks are updated on a three-yearly basis. Carers undergo a full medical every three years or if there is any significant change in their health.

Health and Safety checks are completed as part of the original assessment and updated every three years or earlier, if required.

From file reading there is evidence of one situation where it was recommended that any future placement be of a male child due to the needs and assessed risk related to another young person in long-term placement.

There is no evidence that foster carers have been required to provide any formal services for children in their care beyond accommodating them. The specific nature of the placement and the requirements on carers arising from it is made clear to foster carers through placement agreements (updated from time to time) and the ongoing involvement of carers in planning for the child.

## **2. Organisational Structure and Oversight**

### **2.1 Culture**

#### **Past**

#### **a) What was the nature of the culture within the local authority in relation to the provision of foster care?**

The culture within the Fostering Service at the start of 1996 could be described as one where the focus remained on the wellbeing and safety of the children placed within local authority care and the local guidance utilised did not differ greatly from that of the dissolved Strathclyde Regional Council.

There was a move away from generic social work practice to specialisms (children and family, adult care and criminal justice) with increased emphasis on risk assessment, protection and very targeted service provision – changes which all impacted upon general service provision as well as prevailing culture within service delivery.

Following the coming into force of the Fostering of Children (Scotland) Regulations 1996 (implemented on 1<sup>st</sup> April 1997) changes to policies and procedures were accompanied by changes in terminology which were designed to also change the culture of those involved in service delivery of fostering provision in local authorities. One such change was the move from using the term 'in care' to 'looked after' or 'accommodated', with this arguably being undertaken to reduce or minimise the stigma felt by children who were cared for by the local authority.

It is clear that the need to promote children's views and voices was becoming ever more important, with the themes of engagement and participation also being reflected in guidance and legislation.

There was increasing awareness over this time frame that outcomes for children were greatly improved if they were placed with foster carers.

**b) Was that culture reflected in the local authority's policies, procedures and/or practice in relation to the provision of foster care?**

As a regulated service it was a legal requirement for the Service to work to prescribed frameworks laid out within relevant legislation (including Regulations), as referred to within the wider body of this response.

**c) How can that be demonstrated?**

As the Fostering Service developed and grew, the need for increasing numbers of foster placements became ever more evident and was also informed by research undertaken in 2006 indicating that children under twelve had more successful outcomes if cared for within a foster placement, as opposed to in a residential care setting. This subsequently influenced service provision. Significant investment was made within the Fostering Service around this time (£1.7 million) in an effort to increase local authority foster care provision and reduce the expensive purchasing of external placements.

Furthermore, with the redesign of the Fostering Service that occurred in 2010 with the introduction of the Fostering First and Fostering Xtra Schemes locally, the Service increased the allowances paid to foster carers in an effort to ensure it could continue to attract appropriate prospective carers to the Service. This was also relevant in seeking to retain existing foster carers and in demonstrating the value the local authority placed on the provision.

**d) Did the provision of care by foster carers reflect the local authority's culture, policies and procedures?**

Overall, the practice displayed by the foster carers is assessed as reflecting the prevalent culture, policies and procedures of the local authority at any given time, in part due to the prescriptive nature of the relevant legislation.



While there are examples from time to time of foster carer practice that did not adhere to the local authority's high standards for the Service, or to the culture, policies and practice specific to the time, these were individually addressed within the Service, for example, by offering support and advice via the supervision process, identified training to fill knowledge gaps or if required, more formal measures where practice concerns were such that it was assessed that the specific foster carers should not continue in their role (i.e. de-registration).

- e) **If not, please provide a representative range of examples and explain, by reference to those examples, why particular foster carers did not, in material ways, work in accordance with the local authority's then culture, policies and procedures and what, if anything, was done to change that?**

From files read, it is clear not all foster carers appropriately worked to agreed policies, procedures and the local authority's culture of the time.

Where practice suggested that policies and procedures were not adhered to, this was addressed either via supervision or by more formal means such as annual reviews and/or complaint procedures. There may also have been specific requirements such as the need to attend training to address knowledge gaps or practice concerns.

Foster carers were de-registered if their practice was assessed as dangerous, or where they failed to accept that their practice was unacceptable. In addition, carers were de-registered where they refused to work in conjunction with the Service to improve their understanding of how certain behaviours or responses to children might be deemed inappropriate or harmful.

Example One from 1987:

It was alleged that Mrs ■ smacked a ten-year-old child who was placed in her care. This was not in keeping with the culture and policy at this time. The foster carer was spoken to by social worker and senior social worker in relation to Strathclyde's Regional Council's policy on corporal punishment.

Example Two from 1994:

It was alleged that Mr and Mrs ■ foster carers, would not allow the child to have direct contact with their birth mother due to the child's behaviour. This was not in line with the culture of the Fostering Service nor in line with what was acceptable behaviour. In addition, this was considered to be out with the foster carer's decision making powers in line with the parental contact being directed by the child's plan. Direction was given by social work to the carer that contact should not be used as a punishment.

Example Three from 2005:

Following allegations that Mr and Mrs ■ subjected children to physical chastisement, a full child protection investigation was carried out in conjunction with police. This resulted in Mrs ■ being charged with three counts of assault. This was not in keeping with the culture and ethos of the Fostering Service and the behaviour of the carers was not in keeping with the policy on physical

chastisement. The children were removed to alternative carers and the carers were deregistered.

Example Four from 2013:

It was alleged that Mr and Mrs ■ foster carers were posting negative comments and sharing information on social media in relation to the foster children who were currently placed with them. Such behaviour was not in keeping with the culture of the Fostering Service and was of significant concern regarding adherence to confidentiality protocols and guidance on social media. These concerns were followed up by the supervising social workers who had discussions with the couple regarding appropriate use of social media for foster carers.

Example Five from 2013:

There was an allegation that Ms ■ foster carer (who had care of children under five years of age) was smoking in the company of the children. This was not in keeping with the culture and policy - foster carers were not permitted to smoke within the household environment. There was a joint investigation between the area team and the Fostering Service. Advice and guidance was provided to the carer.

**f) When and why did any changes in the culture of the local authority in relation to the provision of foster care come about?**

There has been a plethora of legislation and policy in relation to foster care provision that has had an impact on the culture of the Service. This alongside research, has increased the Fostering Service's understanding of the impact of trauma and adversity on children's overall development. These factors have had a profound impact on the culture and on service development. The culture of the organisation and the Fostering Service were also significantly influenced by the recognised high levels of deprivation within North Ayrshire and the strategic plans which were developed in accordance with this.

The following are specific examples of how The North Ayrshire Council has implemented policy and legislation which has had a positive impact on the culture and development of the local Fostering Service:

Example One:

Following the Strategic Review of Residential Children's Services and Fostering Services within North Ayrshire Council conducted in 2006, it was agreed to shift the balance of care to provide an increased number of foster placements and reduce the number of residential placements. Research was undertaken which indicated that the number of children looked after by foster carers or prospective adopters had increased every year since 1993. It also verified that when children, under the age of twelve require to be accommodated, then they are helped to achieve the best outcomes if they are placed in foster care.

It was clear that this shift in care provision would require considerable investment, and in conjunction with consultants KPMG, a decision was taken to move to a new foster care provision, which maximised the number of internal



carers and sought to reduce the demand for expensive independent sector placements. The above was subsequently agreed by the authority's Executive in February 2010 with the approval of significant investment within the Service of £1.7 million.

The above is seen as a material change in the culture of service provision, based upon the evidence base of children having more positive outcomes when placed in foster care as opposed to group living within a residential setting.

Example Two:

The development of multi-disciplinary teams including the co-location of Looked After and Accommodated Children (LAAC) Health nurses within the Fostering Service within North Ayrshire. This also led to improved co-operation between relevant professionals, including in relation to the health needs of Looked After Children.

**g) Were any changes in culture driven by internal influences, incidents, experiences or events within the local authority, or any of the foster care placements?**

There have been no significant case reviews relating to children in foster care locally for example that have impacted on fostering practice or provision. Learning has been taken from external reviews and national initiatives, as appropriate.

**h) Were there any changes in culture that were driven by abuse, or alleged abuse, of children in foster care?**

The North Ayrshire Council has taken on board learning from legislative and policy developments as they have occurred, which have in turn been shaped by the findings from external serious case reviews. From file reading there is evidence that this learning has been applied to subsequent allegations and complaints within the Service locally.

**i) If so, when did they occur and how did they manifest themselves?**

See Section 2.1(h) generally.

**j) Were any changes in culture driven by any external influences or factors and if so what were those influences or factors?**

There were changes in culture – please see Section 2.1(f) above.

**Present**

- k) With reference to the present position, are the answers to any of the above questions different?**

Yes.

- l) If so, please give details.**

The move to a Health and Social Care Partnership in 2015 was a defining moment in terms of changes to service provision and a greater emphasis on 'seamless services' and inter-professional working; it also played a part in changing the culture within the Service, where professionals from very different backgrounds are now co-located geographically within services. The strategic direction for Children's Social Work Services is now determined by The North Ayrshire Integration Joint Board. The local authority continues to have a key role in complying with directions of the Board, in the operational delivery of these services and as the employer of social work staff. As with other changes referred to within this response, this change was driven by national legislation, albeit with scope locally to determine the extent of integration. It is expected that as the IJB and the Partnership matures, there may be further impact on relevant services.

The North Ayrshire Council Fostering Service carried out a review of existing Fostering Procedures in 2018 to align with legislative and policy developments and national guidance. This process formally encapsulated unwritten policy that had been adopted for use as custom and practice by the Fostering Service. Similarly, the Foster Carer Handbook was also reviewed and updated.

Changes within regulatory frameworks and legislation continue to influence service provision and the culture within the Service. By way of example, The Children and Young People (Scotland) Act 2014 had a significant impact on practice and culture within North Ayrshire for young people wishing to remain in foster care after eighteen. Continuing Care and Aftercare support is now recognised as an important part of the fostering continuum.

Please see SD 4 (Continuing Care / After Care Policy), for further detail.

- m) To what extent, if any, has abuse or alleged abuse of children cared for in foster care caused, or contributed to, the adoption of the current policies, procedures and/or practices of the local authority, in relation to the provision of foster care services for children including the safeguarding and child protection arrangements applying to its current foster care placements?**

The North Ayrshire Council has taken on board learning from legislative and policy developments, which have been shaped by the findings from external serious case reviews. From file reading there is evidence that this learning and improvement has been applied to subsequent allegations and complaints within the Service and has contributed to current practice approaches.



## **2.2 Structure, leadership and accountability**

### **Past**

#### **a) What was the structure of responsibility within the local authority in relation to foster care?**

Within The North Ayrshire Council, the local authority appointed a Director of Social Services. Previously under Cunninghame District Council, this had been a District Manager. There were two Depute Directors, then a number of Depute Directors/Heads of Service, for different areas of work and below them, Principal Officers.

One of the Principal Officers was responsible for the Fostering Service, with one Assistant Principal Officer reporting to that Principal Officer. They supervised the team of approximately three members of staff, when it was originally established. The team had the responsibility for Family Placement and consequently recruitment, assessment, support and supervision of foster carers. However, the fieldwork area team social workers also undertook foster care assessments and support and supervision of foster carers, alongside principal responsibility for the children and young people in placement. Both groups of staff worked closely together.

As time went on, the Service grew to meet the increasing demands for foster care and the Fostering Team enlarged, until it became the specialist fostering team that exists today with 10 social workers and 1 social work assistant.

#### **b) What were the oversight and supervision arrangements by senior management?**

Senior Managers within the Social Work service had a role both in overseeing service delivery themselves, but also in implementing systems and safeguards to ensure that local foster care provision was safe and effective.

All staff within the fostering team were supervised by the Assistant Principal Officer, who was, in turn, supervised by the Principal Officer. Said Principal Officer was supervised by the appropriate Head of Service/Depute Director. Recordings indicate that supervision occurred generally on a four to six weekly basis for all staff. That provided a route for escalation to senior management, if appropriate.

From 1999 – 2002, a specific team was established internally who were responsible for inspection and review, namely the Registration and Inspection Team.

In approximately 2000 – 2001, a Reviewing Officer was appointed whose role was to review all foster carers on an annual basis and report back to the Principal Officer for the Service.

Foster carers were visited on a regular basis in accordance with legislative requirements and were also subject to annual review.

**c) What were the lines of accountability?**

In terms of social work staff within the 'Fostering Team', they were supervised by the Assistant Principal Officer and as stated, they were supervised by the Principal Officer, who was supervised in turn by the Head of Service, who then reported to the Director. The Chief Executive was ultimately responsible for the operational delivery of the Service.

The role of the Chief Social Work Officer (CSWO) (previously the Director of Social Work) as per the Social Work (Scotland) Act 1968 merits specific mention. That statutory post-holder was (and remains) key in ensuring appropriate professional standards are maintained by the authority in discharging its statutory social work functions, including those that relate to foster care and Looked After Children. More recently, the CSWO has reported annually to the local authority on matters including the delivery of the local authority's social work functions. Whilst the operational management remit of the CSWO (or the Director of Social Work) has been subject to change over time, the purpose of their appointment has remained broadly consistent in that they have a key role in promoting high professional standards and in advising in relation to strategic decisions insofar as they may impact on social work service delivery.

**d) Within the local authority, who had senior management/corporate/organisational responsibility for the managers/management teams/leadership teams who had responsibilities in relation to children in foster care?**

As stated, the staffing structure was as follows:-

Chief Executive > Director > Two Deputy Directors/Heads of Service > a number of Principal Managers (one of whom was responsible for Children & Families) > one Assistant Principal Officer (Fostering Service).

**e) Who, within the local authority, took decisions on matters of policy, procedure and/or practice in relation to foster care?**

Decisions on matters of policy, procedure, or practice, were generally driven by legislation, national policy changes or particular local need. Policy decisions will have been taken where local discretion was afforded to authorities in the discharge of their duties.



Generally, strategic policy decisions will have been taken by the authority or delegated to its Cabinet or Committees (specific delegated authority has varied over the years for the authority and its predecessor authorities). The current Scheme of Delegation to Officers states that:-

*“Delegated powers should not be exercised by Officers where any decision would represent a departure from Council policy or procedure or would be contrary to a standing instruction of Council (or Committee) or would itself represent a significant development from policy or procedure. The only exception to this is in the case of urgency where the Officer may, after consultation with the Chief Executive, Leader, and relevant Cabinet Portfolio Holder or Convenor of the appropriate Committee, exercise delegated powers. Should such powers be exercised in urgent circumstances, a report will be submitted to the next appropriate Committee for noting.”*

Otherwise functions are delegated to officers, unless specifically reserved to Council. Generally, operational decisions will have been taken and operational guidance issued by or on behalf of senior managers within the Social Work service, often with the benefit of input from relevant support services (for example, legal services) and stakeholders.

**f) To whom were foster carers accountable?**

Foster carers have always been deemed to be 'self-employed'.

Foster carers have a contract with the local authority and are subject to regular supervision and visits by a supervising social worker.

Foster carers were required to attend a meeting of the Fostering Panel, where their Fostering Assessment was presented for approval as a foster carer. That forum provided an opportunity for scrutiny of the assessment and for questions to be asked of prospective foster carers and of the social worker who had undertaken their assessment.

Foster carers were also subject to annual reviews, or a review could be called at any point, if any issues arose.

The Foster Carer Review process includes maintaining up to date checks to ensure the continued well-being and safety of foster carers and the children and young people they look after.

The following checks were made:-

- Local authority record checks every three years
- Full medical examination may be requested if a health problem has been identified
- Full medical examination at year four and every three years thereafter
- Health and Safety check and care document checks every three years
- Pet Assessment

- One unannounced visit completed throughout the year
- Record of training completed by foster carers.

Any of the checks referred to may be requested at other times by the local authority in response to a specific issue or concern.

**g) Who, within the local authority, was responsible for the implementation of, and compliance with, the local authority's policies, procedures and/or practices in foster care both by local authority staff and by foster carers?**

All staff who were working with foster carers in some capacity were responsible for ensuring the policies, procedures and practices in foster care were adhered to.

If issues were raised, in relation to a specific foster carer, these would be passed to the supervising/link social workers, as well as the Assistant Principal Officer and Principal Officer.

In addition, issues could be presented to the Fostering Panel with the Panel able to make certain recommendations.

In relation to staff, including those with responsibility for supervising foster carers and children in foster placements, they would have been subject to regular supervision sessions. Line managers had responsibility for ensuring their staff were dealing appropriately with relevant matters and for escalating matters, as appropriate.

More recently staff have been subject to registration by the Scottish Social Services Council (SSSC) and required to adhere to relevant professional standards and codes of conduct.

**h) To whom were fostering panels accountable?**

As at 1996 there was no external regulatory body with duties in respect of the Fostering Service. As previously stated, in 1999 and prior to the Care Inspectorate, The North Ayrshire Council introduced their own internal Registration & Inspection Team who inspected the Fostering Service, including Fostering Panels, up until 2002. Between 1996 and 2005 records indicate that there was no external inspection of the Fostering Service. Regular inspections of The North Ayrshire Council Fostering Service took place following registration of the Service on 25<sup>th</sup> July 2005.

North Ayrshire Council's Fostering Panel was established under Regulation 17 of the Looked After Children (Scotland) Regulations 2009. As such the Panel is accountable to the local authority.



- i) **What were the oversight and supervision arrangements in respect of fostering panels?**

Please see Section 2.2 (h) above.

#### **Present**

- j) **With reference to the present position, are the answers to any of the above questions different?**

Yes.

- k) **If so, please give details.**

Principal Officer and Assistant Principal Officer were the previous job titles in terms of the structure of responsibility. These have now been replaced with Senior Manager and Team Manager respectively.

Foster carers are now required to attend the Fostering Panel within a year post approval and thereafter every third year for review.

The North Ayrshire Council Fostering Service is a registered service, subject to regular inspections and is required to comply with the National Care Standards for Foster and Family Placement Services. The Service is inspected against these standards.

### **2.3 External Oversight**

#### **Past**

- a) **What were the arrangements for external oversight of the local authority's foster care services?**

From 1996 – 2002 the Fostering Service was not subject to any external inspections.

From 2002 – 2011, the Scottish Commission for the Regulation of Care, known as the Care Commission, were tasked with regulating specific care services in Scotland. The Social Work Inspection Agency (SWIA) had the remit to inspect all Social Work Services in Scotland and to report publicly and to Parliament on the quality of these Services, locally and nationally.

The Public Services Reform (Scotland) Act, 2010 came into force in April 2011. It aimed to reduce and to streamline the number of Government Agencies, including the different regulatory bodies. As a result, the previous work of the Care Commission, Social Work Inspection Agency (SWIA) and Her Majesty's Inspectorate of Education (HMIE) (Children's Services remit) were absorbed into

the new Social Care and Social Work Improvement Scotland (SCSWIS). Care Services in the country became regulated by SCSWIS who, from 15<sup>th</sup> September 2011, adopted the simpler working name of the Care Inspectorate.

Inspections carried out in The North Ayrshire Council Fostering Service from 2006 were as follows:-

6<sup>th</sup> June 2006  
 22<sup>nd</sup> October 2007  
 24<sup>th</sup> March 2009  
 17<sup>th</sup> December 2009  
 1<sup>st</sup> March 2010  
 17<sup>th</sup> March 2011  
 29<sup>th</sup> November 2012  
 21<sup>st</sup> January 2013  
 11<sup>th</sup> February 2014  
 17<sup>th</sup> April 2015  
 25<sup>th</sup> April 2017  
 8<sup>th</sup> July 2019.

**b) Who visited the local authority's foster care services in an official or statutory capacity and for what purpose?**

Please see Section 2.3(a) above.

From 2002 – 2011, the national Social Work Inspection Agency (SWIA) had the remit to inspect all Social Work Services in Scotland and to report on their findings.

From 2011, the Care Inspectorate became the official national body to make regular visits to the local authority Fostering Service, generally annually. Their national purpose was and is to inspect standards of care in Scotland. In May 2011, the Scottish Government published the revised National Care Standards for foster care and family placement services.

The Care Inspectorate must inspect to these National Care Standards and all fostering agencies must comply with these National Care Standards, which cover the following activities:-

- Recruiting, selecting, approving, training and supporting foster carers
- Matching children and young people with foster carers
- Supporting and monitoring foster carers
- The work of agency fostering panels and other approval panels.



**c) How often did this occur?**

Regular external inspections of The North Ayrshire Council Fostering Service took place following registration of the Service on 25<sup>th</sup> July 2005.

Please see Section 2.3 (a) above.

**d) What did these visits involve in practice?**

The inspections involved:-

- Interviews with foster carers and children and young people within foster placements
- Interviews with Social Services staff
- Audit of case files and all records pertaining to foster carers and children and young people in placement
- Audit of complaints and child protection records and the Fostering Service's management of same.

These visits also involved an annual inspection of the Fostering Service based on the agency's compliance with National Standards.

As noted above, from May 2011 the Scottish Government published the National Care Standards for foster care and family placement services.

The Framework of the National Care Standards is as follows:-

- Services for children (Standards 1 to 4) – these Standards are for children and young people who go to stay with foster carers.
- Services for foster carers (Standards 5 to 12) – these Standards are for people who are or who wish to become foster carers. They also set out how agencies should work to recruit families for children.
- Management and staffing (Standard 13) – this Standard addressed everyone who uses the Fostering Service. This Standard reflects the importance of knowing that the people who are responsible for the agency have the necessary experience, skills and training.
- Fostering Panels (Standard 14) – this Standard considers all aspects of the work of the Fostering Panel and the responsibilities of the Agency Decision Maker.

**Present**

- e) **With reference to the present position, are the answers to any of the above questions different?**

No

- f) **If so, please give details.**

See Section 2.3 (a).



## **Part B – Current Statement**

The response to this Part B relates primarily to the period 1 April 1996 to 17 December 2014. The information held by The North Ayrshire Council relating to the period prior to 1996, as identified throughout the wider response to this Notice, is partial and should be considered alongside other responses that relate to those predecessor authorities. As such, The North Ayrshire Council is not in a position to fully analyse, and therefore to acknowledge or otherwise, the extent of any abuse which may have occurred prior to 31 March 1996, during its predecessor authorities.

Full information regarding all identified complaints of abuse is included in response to Section 5.9 (Part D). It has not been considered necessary to repeat here the detail of specific allegations of abuse.

### **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?**

It is accepted that complaints of abuse in relation to children in foster care have been made to The North Ayrshire Council and to its predecessor authority, Strathclyde Regional Council. The position pre 1975 is unknown. Details of all allegations of abuse (as defined by the Inquiry) identified from file review are included in response to Section 5.9 (Part D). 97 such complaints of abuse by foster carers (or a family member of the foster carer) have been identified from file review; 68 relate to the period 1996-2014 and 27 to the period 1975-1996 (2 complaints cover both authority periods). 5 complaints of abuse perpetrated by other children within foster placements have also been identified, all of which relate to the period 1996-2014. These complaints were made in relation to 108 children in foster care between 1975 and 2014. The total number of children within foster care over that same time period cannot be ascertained.

One foster carer registered with The North Ayrshire Council was convicted on or around 16 October 2017 of offences against a child placed in his care (Indecent behaviour towards a girl between 12 and 16 under Section 6 of the Criminal Law (Consolidation) (Scotland) Act 1995 and indecent assault (sexual)). The first conviction related to the period 2001 to 2005 and the second to the period 2005 to 2006. The North Ayrshire Council has no information that any foster carer engaged by Strathclyde Regional Council in the North Ayrshire area has been convicted of a criminal offence relating to abuse of a child in their care (please see response at Section 5.13).

The North Ayrshire Council is not aware of any finding having been made in a civil action that a child placed in foster care by the local authority was abused. The North Ayrshire Council is however mindful of four ongoing civil claims regarding alleged abuse perpetrated against children in foster care locally during the period 1975-1996 (for details see Appendix 3 - Civil Actions).

The local authority did not routinely make factual 'findings' as to whether abuse (as defined by the Inquiry) had occurred. It was the role of the local authority to investigate complaints and to take appropriate action in response to safeguard children in foster care. The local authority also had a key role in referring information to appropriate agencies. Behaviour by foster carers may have been judged to be unacceptable by the local authority and in certain instances resulted in their de-registration. That did not necessarily constitute a finding of abuse and it would in the view of The North Ayrshire Council be inappropriate to conflate the two. Of the allegations of abuse identified Section 5.9, 25 have been identified where the behaviour of the foster carer was judged to be unacceptable; 19 of those complaints relate to the period 1996-2014 and 6 to the period 1975-1996. The majority of those allegations (19 of 25) were referred to police for investigation.

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

For the vast majority of children placed in foster care by The North Ayrshire Council, abuse did not occur and there was no suggestion that it did.

The total number of children in foster care over the relevant period cannot be confirmed and therefore it is difficult to contextualise. For the period 2006 – 2014 annual figures for children in foster care are known - ranging from between 83 (2008) to 161 (2014) (See Table 1 at Section 1.6 (i)(a)).

Those cases referenced at Section 3.1 (a) above therefore appear to represent a small minority of children placed in foster care locally over the relevant period.

**c) What is the basis of that assessment?**

Please see the Methodology at the outset of this response, which outlines the thorough approach The North Ayrshire Council adopted to file review to inform its assessment.

### **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?**

There is no evidence that The North Ayrshire Council systems failed to protect children in foster care from abuse.

The systems implemented by The North Ayrshire Council, as referred to throughout this response, were developed in line with legislative frameworks and national guidance from time to time, including those in relation to foster carer



approval and supervision. Implementation of and adherence to relevant procedures and systems is addressed fully in response to Part C below.

In relation to its handling of individual allegations of abuse, there is evidence of positive local practice over the relevant period. It is acknowledged that on occasion, there was limited consideration as to the wider context in which those allegations were made. See response at Section 5.9 for further information.

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

Not applicable. Please see Section 3.2 (a) above.

**c) What is the basis of that assessment?**

Please see the Methodology at the outset of this response, which outlines the thorough approach The North Ayrshire Council adopted to file review to inform its assessment.

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

Not applicable. Please see 3.2 (a) above.

**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?**

There is evidence that The North Ayrshire Council in general acted appropriately in responding to complaints of abuse when received, both in terms of following its own procedures (such as child protection and family placement procedures in place from time to time) and in referring cases to external agencies when that was judged to be appropriate, for example, 38 of the complaints identified in response to Section 5.9 were referred to police. There is also evidence that The North Ayrshire Council took steps not only to safeguard children with immediate effect (for example, by removing them from the foster placement) but also considered whether review of the foster carer's registration was ultimately appropriate. The Fostering Panel played a key role in reviewing registrations. 18 carers against whom complaints of abuse were made were ultimately de-registered by the authority. On occasion, the authority accepted a carer's resignation or retiral. There is evidence that foster carers were informed that resignation or retiral would not impact on any ongoing investigation and that if they resigned or retired any relevant concerns as to their practice would be

shared with other agencies, as appropriate, in the event that they made a future approach to foster for another agency.

Decisions were taken based on contemporary standards and expectations. There has been consistent direction over the relevant period that corporal punishment and physical chastisement were not permitted against children in foster care.

It is acknowledged that there are gaps in recorded information, including as to the steps taken in response to certain complaints. In particular, there are gaps in the information held by The North Ayrshire Council in relation to certain allegations of abuse made against external foster carers. There would have been a role for the external agency in addressing any issues regarding the foster carer. It therefore cannot be confirmed that appropriate investigation and reporting procedures were followed for all allegations of abuse. Identifiable improvement in the recording of outcomes over time is noted. Modern professional standards place significant importance on case recording but it is acknowledged the same importance was not placed on such recording in the recent past.

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

Not applicable. See response at Section 3.3 (a) above.

**c) What is the basis of that assessment?**

Please see the Methodology at the outset of this response, which outlines the thorough approach The North Ayrshire Council adopted to file review to inform its assessment.

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

Not applicable. See response at Section 3.3 (a) above.

**3.4 Changes**

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

Not applicable, see response at Section 3.1 – 3.3 above.

Local policies and practices have developed over time in line with societal expectations and the development of professional standards. This development



has been underpinned by legislative reform and national policy. Improvement over time in the following areas was particularly evident from file review:

- (i) recording of allegation details and outcomes relating to children in foster care;
- (ii) foster carer chronologies allowing for a more informed contextual assessment when concerns arose or allegations were made;
- (iii) closer examination of foster care practice, including in relation to complaints of abuse.

## Part C – Prevention and Identification

### 4. Policy and Practice

#### 4.1 National

##### Past (1996 – 2014)

#### a) **Was there national policy/guidance relevant to the provision of foster care for children?**

Between 1996 - 2014, there was a range of national policy and guidance issued relating to the provision of foster care for children. These built upon the policies and guidance in existence at the point of creation of The North Ayrshire Council in 1996. The most commonly used are as noted below:

- The UK National Standards for Foster Care - Published by the National Foster Care Association (now the Fostering Network) in 1999. Comprehensive service standards that applied to Fostering Services, Foster Carers, Social Work Services and other agencies involved in the provision of childcare services
- Scottish Social Services Council Codes of Practice (2003) – Introduced a standardised set of principles that social services employers and staff must follow to ensure best practice, and uphold public confidence in service provision
- National Care Standards for Fostering Services (2005) (revised 2011) – A set of standards relating to the provision of all Fostering Services in Scotland, that sought to address the recruitment, selection, approval, training and support of foster carers, the matching process for young people being placed with foster carers, the support and monitoring of foster carers and the work of Fostering Panels and other approval panels
- Getting it right for every child (GIRFEC) (2006) – A policy document that placed duties on local authorities to identify the needs of children early in their lives, promoted inter-professional practice, promoted children and their family's role in decision making, and sought to promote an understanding of the child's wellbeing and what influences played a role in the child's life
- These Are Our Bairns (2008) – Policy document that provided guidance for local authorities and community planning partners on how to improve the outcomes for Looked After Children and young people, as well as care leavers



- Early Years and Early Intervention (2008) – A policy document that created a framework for early intervention in the lives of children, who were impacted upon by inequality from the start of their lives. It sought to mark a fundamental shift away from dealing with the symptoms of inequality, to identifying and managing risk to children in their early years
- National Risk Framework to Support the Assessment of Children & Young People, Scottish Government (2012) - This framework was developed around three risk components that built on the GIRFEC Practice Model – Risk, Resilience and Resistance. These three factors required to be considered when undertaking any assessment of need/risk. The complex interplay and weighting of these three factors required close exploration to help reach a clear understanding of risk
- 'Managing allegations against foster carers and approved kinship carers' (2013) – This policy document provided best practice guidance in relation to how Fostering Agencies manage allegations against foster carers and kinship carers when concerns were raised about the safety or wellbeing of a child who was looked after. It recommended an approach that was proportionate, fair and thorough, but which retained at its centre, the protection of the child and focused on ensuring their safety and wellbeing
- Staying Put Scotland (2013) – Guidance that promoted best practice regarding how agencies made care planning decisions for care leavers, prioritised relationship-based practice and recognised the importance of transitions and ongoing support for care leavers
- National Guidance for Child Protection (2010 & 2014) – Provided a National Framework for agencies and practitioners at a local level to agree processes for working together to safeguard and promote child wellbeing. This promoted a shared approach to values and standards and sought to bring clarity and purpose to single-agency, multi-agency and inter-agency working
- West of Scotland Interagency Child Protection Procedures (2011) (updated 2014) - These procedures were to assist staff in identifying indicators which might suggest that a child was being abused or at risk of abuse, advise what steps should be taken if there were concerns about a child, and describe what happens once concerns were reported. The procedures also outlined initial enquiries and investigations, Child Protection meetings and conferences and the range of possible resulting actions and outcomes

**b) If so, to what extent was the local authority aware of such?**

The local authority was fully aware of the national policies and guidance of the time, and as such, sought to incorporate these policies and guidance into local procedures, guidance, frameworks and practice.

**c) If there was national policy/guidance in respect of any of the following in relation to provision of foster care for children, to what extent was the local authority aware of such?**

**i. Child welfare (physical and emotional)**

Over this time period, The North Ayrshire Council was fully aware of national policies and guidance relating to this matter. There was evidence that children's physical and emotional welfare was addressed regularly within Looked After Reviews held in accordance with The Arrangements to Look After Children (Scotland) Regulations 1996 and later the Looked After Children (Scotland) Regulations 2009, and associated guidance. These reviews covered all aspects of a child's welfare (including their physical, emotional, social, and educational development) and devised a multi-disciplinary care plan to ensure the child's needs were fully met.

In addition, evidence from the Care Commission/ Inspectorate Reports highlighted good practice in the consideration of child welfare by The North Ayrshire Council. From 2006, the National GIRFEC model was embedded within The North Ayrshire Council's Looked After Children processes, and all aspects of a child's wellbeing were assessed and reviewed in accordance with these national policies and procedures.

**ii. The child's views**

The North Ayrshire Council was fully aware of national policies and guidance relating to the importance of gathering children's views. This can be evidenced within reports from Looked After Reviews where children generally completed a "Having Your Say" report which informed the Review about all aspects of their life, including their foster placement. The North Ayrshire Council additionally commissioned independent advocacy for Looked After Children from Who Cares? Scotland, who provided support to children and young people to represent their views at Looked After Reviews and Children's Hearings.

Similarly, within The North Ayrshire Council Fostering Service, every child/young person aged 8 or over was automatically referred to an advocacy worker who gathered their views about their placement; this was then used to inform their foster carer's annual Foster Carer Review.

Further evidence of the robust way in which The North Ayrshire Council gathered children's views can be found in reports by the Care Inspectorate and within children's files.

**iii. Reviewing a child's continued residence in a foster care placement**

Over the relevant time period, The North Ayrshire Council was fully aware of national policies and guidance relating to this matter. All children



accommodated within The North Ayrshire Council were reviewed within the timescales as determined by The Arrangements to Look After Children (Scotland) Regulations 1996 and The Looked After Children (Scotland) Regulations 2009 and associated guidance. The principles and values of the Getting It Right For Every Child (GIRFEC) Practice Model (2006) underpinned all Looked After Children processes, including reviewing a child's continued residence in a foster placement. A multi -agency Child's Plan was created at every Looked After Review which documented the actions required to improve the child's circumstances.

In so doing, The North Ayrshire Council gave effect to its responsibilities as a "Corporate Parent". Although this term had no legal status, it encompassed the statutory duties on all parts of the local authority to cooperate in promoting the welfare of children and young people who were looked after by them, and the duty on other agencies to co-operate with local authorities in fulfilling that task.

#### **iv. Child protection**

Over the relevant time period, The North Ayrshire Council was fully aware of national policies and guidance relating to this matter. The risks posed to children in the context of child protection, and their wider needs, were assessed in accordance with the policies, procedures and guidance throughout said time period. In 2012, the introduction of the National Risk Assessment Framework provided a framework and toolkit to support practitioners to identify and act upon child protection risks in relation to children and young people. 'Managing allegations against foster carers and approved kinship carers' (2013) provided a framework which governed the process for managing allegations for Looked After Children in foster placements. These policies and frameworks underpinned The North Ayrshire Council's Child Protection Procedures (2011 & 2014). (see Section 4.8 generally).

The North Ayrshire Council also established a Child Protection Committee in accordance with the National Guidance for Child Protection Committees (2005).

#### **v. Discipline**

Over the relevant time period, The North Ayrshire Council was fully aware of Looked After Regulations and associated guidance in terms of no corporal punishment or physical chastisement of children in foster care. The National Standards for Foster Care (2005 & 2011) set the tone and expectation in relation to promoting good quality care for Looked After Children in foster care. This stipulated that children have the right to feel safe and secure in all aspects of life, including health and wellbeing; enjoy safety but not be over-protected; and be free from exploitation and abuse.

The North Ayrshire Council Child Protection Committee produced a Parenting Handbook in 2010. This was given to all approved foster carers and provided information and guidance on positive parenting, including appropriate discipline and strategies for managing children's behaviour.

These inherent principles and values were reflected within The North Ayrshire Council Foster Carer Service Agreements; the Fostering Procedures (2007) and The North Ayrshire Council Child Protection Procedures (2011 & 2014).

**vi. Complaints handling**

Over the relevant time period, The North Ayrshire Council was fully aware of national policies, guidance and developments relating to this matter as outlined within the National Care Standards for Foster Carers (2005 & 2011). These were fully embedded within the Fostering Procedures (2007) Foster Carer Service Agreements and Child Protection Procedures (2011 & 2014). There was also a duty on the Local Authority to keep a record of complaints in relation to the Fostering Service and record these within the annual report to the Care Inspectorate.

**vii. Whistleblowing**

Over the relevant time period, The North Ayrshire Council was aware that one of the main principles of the National Care Standards (2005 & 2011) was the right to complain effectively without fear of victimisation.

**viii. Record retention**

Over the relevant time period, The North Ayrshire Council was aware of national policies and guidance as well as legislation in relation to record retention, These were incorporated within the authority's Fostering Procedures (2007) and Looked After Procedures (2013).

Please see Section 4.9 generally for further information.

**ix. Recruitment and training of foster carers**

Over this time period, The North Ayrshire Council was fully aware of national policies and guidance in relation to the recruitment and training of foster carers. This included the National Care Standards (2005 & 2011) which were embedded within the Fostering Service's Procedures.



**x. Requiring employers to divulge details of complaints etc in relation to prospective foster carers to the local authority**

The North Ayrshire Council was aware of national policies and guidance in respect of employer references for prospective foster carers. This included the guidance relative to the Looked After Children (Scotland) Regulations 2009. Said guidance was embedded within the procedures and reflected in the paperwork used by the Fostering Service in respect of employer references.

**d) If the local authority was aware of such, did they give effect to that policy/guidance?**

The local authority gave effect to identified policy/guidance. Please see Section 4.1(e) below.

**e) If so, how was effect given to such policy/guidance?**

The North Ayrshire Council was aware of national policy and guidance and this was incorporated into local procedures and practice within The North Ayrshire Council, as is well demonstrated within Care Commission Reports from 2006 onwards. As the regulatory body, the Care Commission/ Inspectorate utilised national standards and frameworks such as the National Standards for Foster Care (2005 & 2011) to measure local authority adherence. Regular inspections of The North Ayrshire Council Fostering Service took place following registration of the Service on 25<sup>th</sup> July 2005.

In addition, from files read, there is evidence that there were regular Looked After Reviews held. These reviews covered all aspects of a child's wellbeing in terms of their physical, emotional, social, and educational development and provided the foundation for a multi-agency care plan to ensure a child's needs were fully met.

**i. Child welfare (physical and emotional)**

From files read, there is evidence that Looked After Reviews were held regularly for children in foster care. This was in accordance with the requirements laid out within the Arrangements to Look After Children (Scotland) Regulations 1996 and The Looked After Children (Scotland) Regulations 2009 and associated guidance. Within The North Ayrshire Council, there was evidence that Looked After Reviews consistently reviewed all aspects of a child's wellbeing. From 2006, in line with national policy developments, Looked After Reviews were underpinned by the principles of 'Getting it Right For Every Child' (GIRFEC) (2006) in relation to considering all aspects of a child's health and wellbeing.

Further evidence of the way in which The North Ayrshire Council gave effect to policy/guidance in respect of child welfare (physical and emotional) can be found within Care Commission Reports and Care Inspectorate Reports, from 2007 onwards:

*“Examination of records and discussions with carers and young people confirmed that play and leisure activities were considered as part of their care plan. Discretionary grants had recently been made available to foster carers to purchase educational and recreational equipment or opportunities. Funding was also available to support young people to take part in specific activities and interests. ....Examination of care plans confirmed that the care needs of children and young people were considered. There was good evidence that these assessments prioritised the need to consider the safety and dignity of all concerned.”*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

*“The Family Placement Team had developed an activity based therapeutic group for young people in foster care. Discussion with the Children's Worker responsible for this development indicated that foster carers and other staff considered this a valuable resource which was being used to support young people to move towards greater social integration.”*

(Source: Care Commission Report dated 21<sup>st</sup> January 2011, completed by Liz Adam, Care Commission Officer).

In 2012, The North Ayrshire Council Fostering Service was recognised within Care Inspectorate Report for promoting the health needs of children living in foster care.

*“After admission foster carers were prompt in registering children and young people with the local G.P practice and arranging for admission medicals. It was evident that a wide range of health services were accessed to meet identified health needs of children and young people. This included speech therapy, occupational health and physiotherapy, dentists and opticians.”*

*“Foster carers had good links with health visitors and school nurses. Children benefited from these working partnerships as was evidenced by health needs being attended to promptly and referrals being made to specialist services without delay. Carers were issued with an "A to Z" Health Resource pack published by NHS Scotland. Carers found this a useful document to use in addition to advice from health professionals.*

*The inspectors found that foster carers routinely promoted an active lifestyle. The inspectors met children who took part in drama clubs, played music instruments, cycled, swam and went horse riding. Younger children were attending 'parent and toddler groups'.*

*“The service had a children's worker who provided one to one work with children and consultations to foster carers and Supervising Social Workers. This service was quickly and easily accessible to children and their carers.*



*Children suffering from grief, loss, attachment difficulties and identity issues had benefited from this service. One carer described this service as invaluable in helping her understand the needs of the young person placed."*

(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).

## ii. The child's views

From files read, there is evidence that children's views were considered and obtained via numerous sources: "Having Your Say" reports for Looked After Reviews; Child Assessment and Plans; advocacy provided by Who Cares? Scotland; and through direct work with children and young people. The child's views about their placement were also gathered prior to Foster Carer Reviews by Who Cares? Scotland and subsequently represented and considered within the Foster Carer Review by an Independent Reviewing Officer.

Successive Care Commission Reports and Care Inspectorate Reports provided evidence of the way in which The North Ayrshire Council's Fostering Service gave effect to children's views. The undernoted comments were taken directly from Care Commission Reports and Care Inspectorate Reports conducted across the time period:

Children and young people in foster care commented that:

*"I like staying here and don't want to move", "I was told how long I would be here and I met them (foster carers) before I came to stay", "I am sometimes asked if I like where I am staying and I always fill out my 'Having Your Say' form. I see my social worker at every contact (with my family) and also occasional visits to the house", "I don't like going to reviews" and "I feel safe and settled". Care plans and discussion with children and young people in foster care confirmed that the service always considered contact between children and their families.*

*"Children and young people were invited to attend LAC reviews and were encouraged to complete their own report, 'Having Your Say', which was presented at the review. They confirmed they had contact with social workers and placing social workers. The contact details for independent organisations such as Who Cares Scotland, Child Line and the National Youth Advocacy Service were provided in the young people's information leaflet. There was evidence of some young people having links with external agencies including Who Cares and CAMHS (Child and Adolescent Mental Health Service) who will advocate on their behalf."*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

*"The service had developed links with 'Who Cares?', the independent advocacy service for children and young people who are looked after and*

*accommodated. The Children's worker and the 'Who Cares' representative met with 26 children and young people living in foster care placements provided by The North Ayrshire Council and independently provided placements. The findings established that children and young people felt well supported and cared for in the placements. This exercise also gave young people the opportunity to meet the 'Who Cares?' representative."*  
(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).

*"Young people of appropriate age were invited to attend Looked after Child reviews to give their views either verbally or in the form of a written report. Child friendly formats using pictorial aids had been used for younger children and children with disabilities. Young people had also been supported by independent advocacy services for children and young people who are looked after and accommodated. There was evidence that any issues raised by children and young people were followed up and resolved."*  
(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).

### iii. **Reviewing a child's continued residence in a foster care placement**

From 1996, children in foster care were subject to regular reviews via the Looked After process. At the start of this time period, these were chaired by Assistant Principal Officers who were independent of the process but had suitable experience and knowledge of the Service. Complex review cases were dealt with by the Service Manager. Following a restructuring of the Local Authority in 2011, the responsibility for reviewing the residence of children in foster care was taken over by Senior Officers (managers with a Social Work qualification) who similarly provided an independent overview of the standards of care received in that they were not directly attached to the Fostering Service or Children & Families fieldwork teams. It was the responsibility of the Chair of the Review to develop care plans for Looked After Children and ensure these were enacted by the appropriate services.

The below noted comments were taken directly from Care Commission Reports and Care Inspectorate Reports conducted across the time period:

*"All carers involved in the inspection process confirmed that they received a copy of the review report. Records of review meetings contained clear action plans and copies were sent to carers and retained in their case files."*  
(Source: Care Commission Report dated 6<sup>th</sup> June 2006, completed by Isobel Dumigan, Care Commission Officer).

*"Young people were linked to 'Throughcare' workers to assist with the transition between foster care and independence. However, many young people were benefiting from staying in the foster home family setting until early adulthood."*  
(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).



#### iv. Child protection

The local authority had procedures relating to child protection in place throughout the relevant time frame. Since early 2000s, within the Fostering Service, all foster carers were required to undertake child protection training and safer caring within their first year of approval. The responsibility for child protection and safeguarding, in its wider sense, underpinned all procedures and processes within the Fostering Service and foster carers were required to contractually agree to adhere to these principles and values within signed Foster Carer Service Agreements.

The undernoted comments are taken directly from Care Commission Reports conducted across the time period:

*“The Service had comprehensive Child Protection Procedures in place, and there was evidence that they had been appropriately implemented. Staff were aware of the procedures and had attended relevant training. The majority of foster carers had also undertaken Child Protection training within the last five years.”*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

*“The Child Protection procedures had recently been updated, and staff also had access to the Area Child Protection Committee guidelines. The training available was detailed in the Multi-Agency training plan for 2008-09. It was noted that the service had responded appropriately when concerns had been raised in relation to child protection. Several carers had attended Child Protection training during 2008 and a number had completed Safer Caring. All carers were expected to undertake mandatory refresher training every three years. Following the last inspection, a leaflet about the Children's Charter and the Framework Standards for Child Protection had been sent to all carers.”*

(Source: Care Commission Report dated 24<sup>th</sup> March 2009, completed by Annabell Nicolson, Care Commission Officer).

#### v. Discipline

Foster carers were fully informed of the procedures and expectations in relation to discipline and this was incorporated within the Foster Carer Service Agreement, which required formal acceptance following successful approval as foster carers. This policy was reinforced via foster carer training, supervision and ongoing support and strategies to manage children's behaviour. The Fostering Services also operated a “hands off” approach to physical restraint and carers were trained in non-physical behaviour management strategies.

It was noted within the Care Commission Report, dated 22<sup>nd</sup> October 2007, that carers stated they were offered and accessed a good range of training

opportunities which supported them to care for children and young people placed with them.

There was also evidence within this report that the Service conducted a full assessment of the individual needs of children and young people, prior to placing them with carers. This provided the carer with information specific to the child's needs and behaviours, and therefore supported them to implement appropriate behavioural strategies.

*"Examination of care plans confirmed that the care needs of children and young people were considered. There was good evidence that these assessments prioritised the need to consider the safety and dignity of all concerned."*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

#### **vi. Complaints handling**

Children were provided with an information leaflet which outlined the complaints process. Children were also provided with independent advocacy support via Who Cares? Scotland who offered support to the child in progressing any issues or concerns. Additionally, a central role of the child's allocated social worker was to advocate for the child. It was well established custom and practice that allocated social workers would advise children that should they have any concerns or complaints regarding their placement, they would represent these on the child's behalf. Similarly, it was well established custom and practice for the child's allocated social worker or the advocacy worker representing them to verbally provide feedback to children on the outcome of complaints/concerns raised.

In relation to foster carers, they were fully informed of the procedures in relation to complaints handling which was incorporated within the Foster Carer Service Agreement (created in 2003 and amended until its current form) and required formal agreement following successful approval as foster carers. This policy was reinforced through foster carer training, supervision and ongoing support in managing children.

The below noted comments are taken directly from Care Commission Reports and Care Inspectorate Reports conducted across the relevant time period and provide evidence that the process in relation to complaints handling was well known and accessible to children and foster carers:

*"The Fostering Service was well managed, and the staff team demonstrated a commitment to continuing to develop the service. The management structure clearly identified an external manager with direct knowledge of the service to support senior staff and oversee complaints."*

(Source: Care Commission Report dated 6<sup>th</sup> June 2006, completed by Isobel Dumigan, Care Commission Officer).



*"The Care Commission's role in relation to complaints was detailed in the information leaflet given to young people. The North Ayrshire Council's Listening and Learning Scheme could also be used to make complaints or comments."*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

*"Three foster carers were also part of a group that was being consulted about a protocol for 'Responding to Allegations against foster carers'. Consultation had recently started with the carers from the Professional Carer Scheme in relation to the development of policies and procedures."*

*"Carers and young people had access to The North Ayrshire Council's Listening and Learning Scheme which they could use to make complaints or suggestions. In interview, carers described staff as helpful and approachable, and as responding positively to any concerns or issues."*

(Source: Care Commission Report dated 24<sup>th</sup> March 2009, completed by Annabell Nicolson, Care Commission Officer).

*"There was a complaint procedure in place which was known to foster carers and children."*

(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).

*"There was a complaint procedure in place which was known to foster carers and children. Complaints were well managed."*

(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).

## **vii. Whistleblowing**

Whilst not expressly referred to as 'Whistleblowing' it is submitted that the identification and reporting of concerns regarding the care of children, including those in foster care, was at the core of all child protection processes in place locally from time to time.

The expectations and responsibilities of the fostering role/task were stipulated within the Foster Carer Service Agreement and foster carers were contractually obliged to report any concerns to the Fostering Service. Although this contractual agreement does not specifically refer to whistleblowing in relation to other foster carers, there was an unwritten policy that this was the service expectation and foster carers were expected to adhere to these standards at all times. A specific whistleblowing policy was, however, not included within the Fostering Procedures of the time.

In relation to staff, The North Ayrshire Council had in place robust policies and procedures, including a whistleblowing policy. It was recognised within the Care Commission Report (2009) that on appointment, all staff were given a copy of The North Ayrshire Council's Code of Conduct and were

required to sign their agreement to it. It was further noted that the local authority had policies and procedures on Whistleblowing and Dignity and Respect at Work for staff (including social workers and Managers within the Fostering Service) but not specifically for foster carers. Equality and Diversity training was part of the core training that all staff had to complete.

Systems were also in place to encourage feedback from foster carers in respect of any aspect of the Fostering Service. Opportunities to do so were highlighted within the Care Commission Report (2009) as follows:

*“Second opinion visits undertaken at the end of assessments and the questionnaires issued to applicants attending the Fostering and Adoption Panel provided opportunities for comments to be made regarding the conduct and attitude of staff.” Carers and young people had access to The North Ayrshire Council’s Listening and Learning Scheme which they could use to make complaints. In interview, carers described staff as helpful and approachable, and as responding positively to any concerns or issues.*

(Source: Care Commission Report dated 24<sup>th</sup> March 2009, completed by Anabell Nicolson, Care Commission Officer).

#### **viii. Record retention**

In relation to children’s records, The North Ayrshire Council (in accordance with Regulation 43(1) of The Looked After Children (Scotland) Regulations 2009) retained these for 100 years from the child’s date of birth, unless the child died before the age of 18, in which case the period for retention was 25 years from the date of death.

In relation to foster carers, under the Fostering of Children (Scotland) Regulations 1996, the record for a foster carer or other person (compiled under Regulation 18 of said Regulations) was retained for at least 10 years from the date on which approval was terminated, or until death if earlier. This was amended by The Looked After Children (Scotland) Regulations 2009, whereby records required to be retained for 25 years. The retention period was triggered either from the death of the foster carer or termination of the foster carer’s approval and records are to be destroyed after this period. Where a mix of foster carer information and child information was held within the same record then a 100-year retention would ‘override’ the 25-year retention period.

For both children and foster carers, older records were held exclusively within paper files with more recent records retained electronically and/or within paper files.

Furthermore, it was custom and practice that foster carers received a copy of the National Care Standards (2005 & 2011) following approval. Foster carers were therefore fully aware that The North Ayrshire Council would retain information in respect of their assessment and involvement with the Fostering Service. They were also aware that information that raised



safeguarding issues either for prospective or approved foster carers would be shared with other fostering agencies, relevant bodies or the police, if immediate risk was identified. All successful prospective foster carers were instructed by their assessing social worker to ensure that any records held by foster carers themselves (e.g. records of the child's progress, daily behaviour logs, communication diaries) required to be held in a lockable cabinet within the foster carer's own homes, to ensure appropriate confidentiality procedures were maintained. Over the relevant timeframe, it was unwritten policy within The North Ayrshire Fostering Service that information pertaining to the child transferred with them when they moved on from any placement. It was the responsibility of the supervising social worker for the foster carer to oversee compliance with this. This information was retained either within the child's file or provided to the new foster carer, where this was deemed appropriate.

Please see Section 4.9 generally, for further information.

#### **ix. Recruitment and training of foster carers**

The North Ayrshire Council incorporated national policy, procedure and guidance in relation to recruitment and training of foster carers into the Fostering Procedures (as adapted from Strathclyde Regional Council and reviewed in 2007) and the Foster Carer Service Agreement. Evidence of this was demonstrated within Care Commission Reports and Care Inspectorate Reports, completed over the relevant timeframe.

The Care Commission Report 2006, highlighted that:

*"all applicants were provided with clear information about the assessment and approval procedures. Carers, children and young people interviewed, confirmed they had been fully involved in the assessment process. Applicants were given a copy of the "Information for people who want to find out about fostering and adoption" document. Approved foster carers were provided with copies of The North Ayrshire Council's Foster Carer's Handbook. These two documents contained clear information about the agency policies and procedures."*

*"The agency used the BAAF (British Association of Adoption and Fostering) form F competency-based assessment. Assessments sampled had been completed by qualified social workers with relevant knowledge, skills and experience. Experienced foster carers routinely attended and contributed to preparation group sessions. Records showed that all necessary checks were completed as part of the assessment and approval process. Most carers interviewed confirmed their awareness of the Care Commission National Care Standards."*

(Source: Care Commission Report dated 6<sup>th</sup> June 2006, completed by Isobel Dumigan, Care Commission Officer).

In 2007, The North Ayrshire Council appointed a Training and Recruitment Officer, with associated administrative support, as part of a two-year

phased funding provision. The intention of this was to extend and develop the training provision offered by the Fostering Service. Care Commission Report of that year noted comments from foster carers and shared carers that:

*“Training is comprehensive and tailored to a lot of children’s needs”*  
(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

The Care Commission Report (2011) noted that  
*“All enquiries were dealt with promptly and professionally. This was confirmed through discussion with carers who had been recently approved.”*

*“Additionally, all training provided added to the formal recognition of foster carers as professional partners in the care of children and young people. Discussion with carers indicated that they felt included as part of the Family Placement Team. Observation of interaction between staff during the inspection process confirmed the respect and regard which was spoken about between the two groups.”*  
(Source: Care Commission Report dated 21<sup>st</sup> January 2011, completed by Liz Adam, Care Commission Officer).

The Care Inspectorate Report (2012) outlined that:  
*“Foster carers were given access to excellent training to develop their skills and knowledge in working with vulnerable children. Some examples included: Trauma and Brain Development, Attachment and Loss, Foetal Alcohol Syndrome and Neonatal Abstinence Disorder and Life story work. As a result, children received good quality care from skilled and knowledgeable foster carers. For the Fostering Xtra Scheme foster carers were also required to complete an SVQ award.”*  
(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).

The Care Inspectorate Report (2013) recognised that:  
*“There were very good training opportunities for foster carers to enhance their skill and knowledge in caring for children. Specialist training was also sourced for children with specific needs.”*

*“A robust assessment was undertaken of applicants to meet all necessary standards and second opinion visits conducted by a member of management. The Fostering Panel provided quality assurance of the suitability of applicants and of the quality of written report presented to the panel.”*  
(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).



**x. Requiring employers to divulge details of complaints etc in relation to prospective foster carers to the local authority**

The North Ayrshire Council incorporated national policy, procedure and guidance in relation to employer references for foster carers into their Fostering Procedures (2007).

During the assessment process, references were sought from employers in respect of any conduct or disciplinary matters, issues in ability to sustain relationships or known offences. The Fostering Service designed and implemented paperwork to this effect.

Furthermore, the Care Commission Report (2006) noted that all necessary checks were completed as part of the assessment and approval process as standard practice prior to the reviewed Fostering Procedures (2007). The comments below were taken directly from Care Commission Reports and Care Inspectorate Reports conducted across the relevant time period:

*"Records showed that all necessary checks were completed as part of the assessment and approval process. Most carers interviewed confirmed their awareness of the Care Commission National Care Standards."*

(Source: Care Commission Report dated 6<sup>th</sup> June 2006, completed by Isobel Dumigan, Care Commission Officer).

**f) If not, why not?**

Not applicable.

**Present**

**g) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**h) If so, please give details.**

The Fostering Service continues to develop and respond to national policies and guidance as per the requirements of all regulated Fostering Services in Scotland. These developments complemented existing practice and strengthened existing methodology with regards to the care and protection of vulnerable children. Underrated is the main national policy and guidance development relevant to the Fostering Service across the pertinent time period:

- Scottish Social Services Council Codes of Practice (Revised 2016) – this consisted of two main changes to the previous codes; enhanced the fitness to practice model of regulation and inserted duty of candour i.e. introduced

a statutory requirement on organisations providing health and social care to demonstrate their commitment to disclose instances of physical or psychological harm

The following information highlighted in Care Inspectorate Reports dated 2015 and 2019 evidences that The North Ayrshire Council continues to give effect to national policy and guidance:

*“Children were given opportunities to develop skills, hobbies and have new experiences. This gave children the opportunity to achieve, experience enhanced self-esteem and make friends.”*

(Source: Care Inspectorate Report dated 13<sup>th</sup> March 2015, no inspector identified).

*“The Care Inspectorate Report 2015 found that the service promoted the child's right to be heard and funded representatives from the independent advocacy service 'Who cares?' Children and young people who wished to use this service were independently supported within formal decision-making forums, such as children's hearings and Looked After and Accommodated Children (LAAC) care reviews. Children and young people continue to be supported to complete reports for foster home reviews and to give their views about living in foster care at the LAAC review with any issues raised promptly addressed by the staff at the service.”*

(Source: Care Inspectorate Report dated 13<sup>th</sup> March 2015, no inspector identified).

The Care Inspectorate Report (2015) found that The North Ayrshire Council were prompt in planning for children when they entered foster care. Case files sampled showed that Initial Planning Meetings were held for children within 72 hours of admission to foster care. This meant that information was shared appropriately and quickly about circumstances leading to the child being accommodated, about the child's needs and how these would be met.

*“Foster carers were provided with placement agreements for the children in their care which detailed the child's need, the purpose of the placement and day to day arrangements, such as schooling and contact. This meant there was clarity in how the child's needs would be met.”*

(Source: Care Inspectorate Report dated 13<sup>th</sup> March 2015, no inspector identified).

Over this time period, and in accordance with the relevant Looked After Regulations, Looked After Reviews were convened at regular intervals for all children in foster care to review their care plan.

The following evidence was extracted from Care Inspectorate Reports (2017 & 2019):

*“...we found that the service was quick to challenge standards of care that were not felt to be of good enough quality for children and young people to thrive.”*



(Source: Care Inspectorate Report dated 3<sup>rd</sup> February 2017, completed by Donna Borek, Inspector).

*“During our inspection we found evidence that young people were being kept safe and were achieving positive outcomes when using this service”.*

*“We looked at child protection procedures and practice and were satisfied that there were procedures and practice in place to ensure service users are protected.”*

(Source: Care Inspectorate Report dated 4<sup>th</sup> June 2019, completed by Fiona Sheils & Moira Blain, Inspectors).

## **4.2 Local Authority**

### **(i) Policy**

#### **Past**

#### **a) Was there local authority policy/guidance in relation to the provision of foster care?**

On its inception, The North Ayrshire Council Fostering Service continued to use the Fostering Guidelines developed by Strathclyde Regional Council and adapted for use by The North Ayrshire Council Fostering Service. This was reviewed and updated in 2007, and subsequently incorporated into the Foster Carer Handbook, Foster Carer Service Agreement and Foster Carer’s Induction Pack.

In relation to child protection for children accommodated in foster care, the Fostering Procedures aligned to Child Protection Procedures in place over the relevant time frame and The North Ayrshire Council initially continued to utilise Strathclyde Regional Council Child Abuse Procedures. As per the Fostering Procedures, these were adapted for use by The North Ayrshire Council in 1997 and subsequently updated by The North Ayrshire Council Child Protection Procedures in 2011 and 2014. Similarly, Looked After Procedures were updated within this time frame relative to children in foster care.

#### **b) Was there a particular policy and/or procedural aim/intention?**

All policies and procedures were ultimately aimed at the promotion of positive outcomes for children, whilst ensuring they were safe and protected from harm. The North Ayrshire Council was committed to ensuring children’s voices were heard within such processes. The North Ayrshire Council promoted ongoing contact between a child and their siblings and birth family/extended family. The aim for all children in foster care was to assess and rehabilitate children to their birth families or extended family where possible. Should this not be possible, it

was the aim of The North Ayrshire Council to progress a child's care plan in order to secure substitute care through permanent foster care or adoption.

**c) Where were such policies and/or procedures recorded?**

Procedures in relation to the care of children in foster care were held in paper copies within the Service and electronically within the local authority's intranet/electronic recording systems. All relevant staff had access to such documentation and copies of policies and procedures were also made available to foster carers within the relevant time period.

Other national policy and guidance introduced over this timeframe was provided to foster carers contemporaneously as stand-alone guidance. This included, but was not limited to: Guidance on car safety seats, Smoking Policy (children under 5 years of age could only be placed within non-smoking fostering households; smoking to include e-cigarettes), Outdoor Pursuits Policy and guidance on pocket money. In 2013, The North Ayrshire Council Fostering Service issued foster carers with guidance relating to the new placement descriptors and placement limits as outlined within the National Foster Care Review (2013).

**d) What did the policies and/or procedures set out in terms of the following?**

**i. Child welfare (physical and emotional)**

Within The North Ayrshire Council, child welfare (both physical and emotional) was a central component that underpinned all procedures in respect of Looked After Children.

The Looked After Children Procedures in place within The North Ayrshire Council over the relevant time frame sought to improve practice and procedures for accommodated children and young people and their families in order to provide better outcomes for children.

From 2006, in accordance with the introduction of Getting it Right for Every child (GIRFEC), The North Ayrshire Council incorporated the associated developmental dimensions throughout all processes in respect of Looked After Children and relevant paperwork for Looked After Reviews was updated to reflect this. This continued to be unwritten policy until the introduction of 'Altogether Better Care' for Looked After Children Procedures in 2013 which formally reflected these developmental dimensions.

In relation to child welfare, both physical and emotional, these were incorporated within the seven developmental dimensions, which were health, education, identity, family and social relationships, social presentation, emotional and behavioural development and self-care skills.



For the Fostering Service, the principle of child welfare (physical and emotional) was incorporated within the Foster Carer Service Agreement (created in 2003 and amended until its current form). This was the contractual agreement between the Fostering Service and all approved carers and set out the requirements and expectations of the fostering task. Section 4 'Statement about the Task' (Fostering First Service) or Section 5 'Statement about the Task' (Fostering Xtra Service) (as at 2011), set out a range of statements about core skills, tasks and abilities relating to child welfare. These included, but were not limited to:

- To care for the child as if he/she were a member of their own family in a safe and caring manner
- To provide the child with food, clothing and warmth, a bed and a separate room
- To promote the child's welfare, in accordance with the child's Looked After Care Plan. To attend professional meetings such as Looked After Reviews and Children's Hearings as needed
- To be aware of the child's emotional, social, educational, religious and physical needs
- To ensure that under no circumstances will physical chastisement be used against the child
- To ensure that any disciplinary measures will avoid humiliation of the child
- To encourage the child's self-esteem and positive self-image.

## **ii. The child's views**

The North Ayrshire Council's Looked After Procedures and Child Protection Procedures outlined a clear commitment and responsibility for the local authority to obtain children's views in line with legislation, national policy and guidance. This included working in partnership with external organisations such as Who Cares? Scotland to ensure independence and transparency in relation to the support and promotion of children's views.

## **iii. Placement of siblings**

The Fostering Procedures in place within The North Ayrshire Council emphasised the need to place sibling groups together where possible. Where siblings could not be placed together, it was recognised that this could have a detrimental impact upon the children's relationships. Ongoing assessment was recommended regarding the possibility of future co-placement where assessed as being in the children's best interests. At all

stages of placement, sibling separation required to be carefully considered. This principle was inherent in permanence procedures during this period, where a written report required to be submitted to the Director of Social Work/Head of Service for Children and Families where permanent sibling separation was contemplated. Any separation required this authorisation and evidence of this was presented to The North Ayrshire Council's consultative planning group for permanence (PPG) and the Adoption and Permanence Panel.

#### iv. The placement of a child in foster care

The North Ayrshire Council Fostering Procedures recognised that children should be placed in foster care only where it was assessed as being in the child's best interests. The local authority's policy aim regarding this matter, as outlined within the Fostering Procedures and 'Altogether Better Care' Looked After Procedures (2013) was to maintain children with birth parents or other family members where possible and assessed as safe to do so. The placement of a child in foster care was actioned when a full assessment of the child's circumstances had been completed and all other family options had been explored, other than in circumstances where a child was accommodated on an emergency basis.

The Fostering Procedures (2007) set out the following in relation to the placement of a child in foster care:

*"There is a need to gather good information about any child being referred for foster care. Area Team Social Work staff, as well as social Work Standby, who deal with referrals, including emergencies, will be responsible for ensuring that all the necessary information about the child or young person is gathered, noted and incorporated into her/his Foster Placement Agreement. This will include: circumstances of the need for accommodation; siblings; school; ethnicity; diet; special physical needs; religious and cultural needs; medical needs; views of the child; views of the parents and any other family carers; reasons why they should not be placed with other children; any particular behavioural issues; any pets; any circumstances about the child's family that may affect a match?"*

*Where it is possible to plan a placement, there should be introductions and the Foster Placement Agreement (FPA), will be drawn up before the child or young person moves. The FPA will include the legal basis for the placement; information about the child; arrangements for school; contact, etc.; financial arrangements; parental agreement to medical consent, if appropriate and/or available; arrangements for other permissions for activities, etc.; social work contact; and cross-reference to the carer's general Foster Carer Agreement.*



*Where a child or young person has to be placed on an emergency basis, the North Ayrshire Council will expect foster carers to fulfil their duties and responsibilities to the child or young person and to the North Ayrshire Council, as outlined in their general Foster Carer Agreement. The link worker and the placing worker will work together to gather the information necessary for the Agreement, within 72 hours. However, any immediate necessary information about the child or young person, such as diet and health needs, **must** be given to the carers at the time of placement, even if only verbally."*

*(Source: The North Ayrshire Council Fostering Procedures, 2007)*

With regards to permanence, this was only considered after all efforts were made to establish rehabilitation and review other potential family options. If a child's plan was for permanent care, the child's circumstances and the legal options to secure them in an alternative family setting was considered by the local authority's consultative planning forum for permanence, the Permanence Planning Group (PPG). Prior to permanent placements children were matched and linked with their long-term carers with appropriate legal measures subsequently pursued to secure their long-term future where this was considered appropriate to the child's circumstances and/or views.

The North Ayrshire Council continued to adhere to the policy set by Strathclyde Regional Council that children under twelve years should not be placed in a residential setting and foster care was viewed as a more appropriate option for younger children. The original policy was based on the report "Another Kind of Home: a review of residential childcare," by Angus Skinner (Social Work Services Inspectorate for Scotland, 1992).

Throughout this timeframe, and in accordance with the requirements for reviewing a child's placement in foster care set out within the Arrangements to Look After Children (Scotland) Act 1996 and the Looked After Children (Scotland) Regulations 2009, the Looked After Procedures in place stipulated that any child admitted to foster care would be subject to a Post Admission Meeting within three working days and Looked After Reviews would take place to review the child's care plan after six weeks, then three months after the placement commenced. Where appropriate, these would continue to be held every six months (unless assessed as being required more frequently).

The Foster Carer Service Agreement also reflected the procedures of the Fostering Service and these underpinned the expectations of all foster carers in relation to any child placed in foster care. This is outlined in Section 4.2 (d)(i) above.

#### **v. The particular placement of a child with foster carers**

As previously stated, from 1996 onwards the Looked After Procedures, previously in place within Strathclyde Regional Council continued to be

operational in a format that was adapted for The North Ayrshire Council. These were reviewed over the relevant timeframe and The North Ayrshire Council introduced 'Altogether Better Care', Looked After Procedures in 2013 (SD 17).

The 'Altogether Better Care', Looked After Procedures (2013) and the Fostering Procedures (2007) provided information relating to the placement of children with foster carers. This is summarised below:

In the event that planned placements occurred, staff were directed to ensure that all relevant information relating to the child's day-to-day routines, their education, health and other needs-led information was gathered and shared with the identified foster carer/s, with information on the foster carer/s also being shared with the child.

Every successfully approved foster carer was required to produce a child friendly booklet that introduced them and their family to the child and contained information about the local area where they resided, photos of all household members and pets and also contained a photo of the child's bedroom within the fostering household. Both documents also highlighted the necessity for clarification on the reasons for possible admission and what the legal basis was for coming to this conclusion. Furthermore, the objective of the placement required to be identified, while also exploring the possibility or likelihood of rehabilitation. As such, careful consideration was also required in relation to the geographical location of the foster carer/s' home, and how this would impact upon the child maintaining a link with their local community, birth family members and appropriate education provision. In practice, these discussions would usually occur between numerous staff members including senior managers for the Fostering Service, social worker for the foster carers and the child's allocated social worker and their own manager. Foster carers would also be informed of expectations placed upon them in relation to the facilitation of birth family contact and transportation to and from the appropriate educational placement.

Where children were admitted to foster care in emergency situations and in such circumstances where there was no opportunity for planning introductions and consideration of matching implications, the local authority's procedures stipulated that the relevant admission paperwork and legal status for the placement was fully documented. In addition, all known information on the child's family, health and education would be shared with the foster carers, to meet the child(ren)'s immediate needs, as best as possible. A Post Admission Meeting, where relevant information regarding the child's needs would be shared by relevant staff and family members, was also called within three working days of the placement commencing and ensured that foster carer(s) would have the opportunity to gather additional information, that may not have been available at the point of the child being placed.

These procedures also highlighted the need for children being placed in foster care to have medical and dental examinations as soon as was



practicably possible and to identify and recognise any religious affiliation and support these where necessary. There was also consideration given to matters such as the need to seek parental medical consent, parental (or local authority) consent to allow the child to leave the country on holiday and/or any pre-planned holidays of the foster carers. The above information would then be gathered within the 'placement agreement' which foster carers and the Fostering Service both signed and retained.

In addition, The North Ayrshire Council's Fostering Procedures (2007) also highlighted the need to consider the child's ethnicity, with recognition given to the importance of due consideration of this factor.

**vi. Contact between a child in foster care with his or her family**

The Looked After Procedures, as discussed at Section 4.2 (d)(v) identified that contact arrangements should be focused on, and shaped around, the child's needs. The child's welfare was the paramount consideration at all times, and it was noted that each child's wishes and needs for contact should be individually considered and regularly assessed. In practice, contact arrangements for a child in foster care, with his/her family, were also at times stipulated by the statutory order in place.

In addition, other Service documentation reinforced the above policies and ethos. This is evidenced within the Foster Carer Service Agreement which was introduced in 2003, and subsequently reviewed and updated throughout the relevant time period. This required to be signed prior to placement of any child and included the following statement:

- To encourage and promote contact between the child and his/her family, where this was in the interests of the child and was part of the Looked After Care Plan

**vii. Contact between a child in foster care and other siblings in foster care**

Similar to contact with family, promotion of contact (including with other siblings in foster care) was encapsulated within the Foster Carer Service Agreement (2003 as amended). This document required to be signed prior to the placement of any child and included the following statement:

- To encourage and promote contact between the child and his/her family, where this is in the interests of the child and is part of the Looked After Care Plan

File review indicates that in line with relevant procedures, the maintenance of sibling contact was afforded appropriate weight and generally considered at relevant review meetings. Additionally, contact with siblings may also have been regulated by the child's statutory order. It was unwritten policy

that where this was the case, the responsibility lay with the local authority to give effect to same.

**viii. Information sharing with a child's family**

The Looked After Procedures in place within The North Ayrshire Council stipulated that whilst children may have been removed from parental care, parents would often retain parental rights. As such, the local authority was required to share information about the child's development in terms of their emotional, physical and academic progress with birth parents (as deemed appropriate).

Furthermore, information contained within the Foster Carer Service Agreement, which required to be signed prior to placement of any child, placed the responsibility on foster carers:

- To work with the child's family, where this is in the Looked After Care Plan, and in consultation with the Family Placement Team

**ix. Fostering Panels (including constitution, remit, frequency, and record keeping)**

The Fostering Guidelines introduced by Strathclyde Regional Council in 1985, which were adapted for use by The North Ayrshire Council Fostering Service from 1997-2007, did not provide specific detail in relation to Fostering Panels. The North Ayrshire Council has not identified specific detailed written documentation as to the local constitution of the Fostering Panel from 1996-2007, albeit the Panel was referenced in the procedures in place at that time. Clearly, the Fostering Panel functioned during that period and legislation and national guidance provided a comprehensive framework for its operation. The functions, constitution, remit and frequency of the Fostering Panel was fully documented in The North Ayrshire Council's Fostering Procedures (2007). This outlined a range of matters pertaining to Fostering Panels including the purpose and functions of the Fostering Panel, legal frameworks within which the Fostering Panel operated, constitution of the Fostering Panel, required training for Panel Members, reports and submission requirements and the process of approval, review and de-registration and the requirement for Business Meetings to be held at least annually to consider relevant areas. This included any concerns/areas of development raised by Panel Members with regards the Fostering Service.

With regards to record keeping, all business pertaining to the approval, review and de-registration of foster carers was formally minuted. These were held within foster carers' records and retained for the designated retention period. See Section 4.9 for further information.



For further information relating to the Fostering Panel's functions, constitution, remit and frequency, please see Part A generally.

**x. Recruitment and training of foster carers**

The Fostering Procedures (2007) outlined the Fostering Service requirements in relation to recruitment of foster carers. This included guidance in terms of recruitment strategies, which emphasised the need to ensure the appropriate numbers of approved foster carers to manage placement requests.

Training needs and support for approved foster carers were also outlined and incorporated within these procedures and the Foster Carer Service Agreement from 2007. This required to be signed prior to placement of any child and stipulated that:

The foster carer(s) will be provided with an ongoing programme of training with essential training to be undertaken in these specific areas:

- Skills to Foster – A preparation course for prospective foster carers that provided an overview of the task and included information on a range of topics such as 'safer caring' (see below for further information), issues relating to identity for fostered children, testimonies from foster carers and fostered children, working with birth family members and other related matters
- Safer Caring – A training programme that focused on how foster carers safely care for fostered children within their own homes. This programme sought to identify strategies to safeguard all household members, such as ensuring all toilets have a lock on the door, keeping bedroom doors open when entering a child's bedroom, ensure children sat in the back of vehicles when transporting them alone encourage household members to dress appropriately i.e. wearing pyjamas and dressing gowns around the home at all times
- Child Protection – A training programme that clarified the foster carers' role and duties in terms of reporting safeguarding issues, raised awareness about signs of abuse, the existing legal frameworks and procedures relating to the child protection process for the child and the foster carer
- First Aid – A training programme facilitated by the British Red Cross that ensured all approved foster carers had at least basic knowledge of First Aid in the event of an emergency
- Attachment & Child Development – A training programme that explored the negative impact on children of having poor attachment patterns with their primary caregivers and how this impacted upon

behaviour and development. This programme also sought to highlight what constituted 'normative' child development to ensure that foster carers were able to identify where children required targeted support or care

- **Managing Behaviour** – A training programme that sought to offer behaviour management advice and guidance to approved foster carers in recognition that standardised parenting responses would not always be successful with fostered children due to their adverse early life experiences
- **Life Story work** – A training programme that supported foster carers in appropriate strategies to assist Looked After Children to understand their life experiences in order to support a child's understanding of their 'life story' i.e. completion of timeline, family tree, exploration of 'memory box' and keepsakes contained therein.

The Foster Carer Service Agreement also stipulated that it was a requirement of the Fostering Service to ensure that each foster carer had a training plan and written records were kept of all training undertaken. Training required to include awareness raising of equal opportunities and anti-discriminatory practice.

The Foster Carer Service Agreements also stipulated that foster carers were required to attend a minimum level of training, including core training, every year to ensure the possibility of ongoing approval as foster carers with the Service. Furthermore, it was written into the Fostering Service Training Plans that core training, such as child protection and safer caring required to be completed within the first year of approval and thereafter on a three-yearly basis. The expectation was to ensure that foster carers knowledge base and practice remained in accordance with service expectations in relation to safeguarding. Foster carer training needs were reviewed at least annually at a Foster Carer Review where the foster carer and Fostering Service's compliance with training requirements was subject to external scrutiny by a Chairperson who was independent of the Fostering Service.

In respect of the IMPACCT family based shared care scheme, there were targeted campaigns to recruit respite carers for children with complex disabilities or health needs who largely resided within the community. Prospective IMPACCT carers required to have skills and experience in supporting children and young people with these needs. This scheme was governed by the same national and local procedures in place in respect of fostering and child protection. Carers were subject to standards of supervision and review as per Fostering Procedures.

The IMPACCT scheme had a discreet Foster Carer Service Agreement which reflected its specific role as a respite provision for children & young people with complex health care needs. This stipulated the requirements of



the role in respect of training, specifically that IMPACCT carers were required to complete a minimum of ten days of relevant training annually.

Foster carers within the IMPACCT scheme were contractually required to undertake similar core training delivered by the Fostering Service as required by all approved foster carers. This included, for example, Child Protection, Safer Caring and First Aid. The IMPACCT Scheme also provided a specialised training programme based on the individualised needs of the child for whom the carer provided respite. This included, for example, training in respect of Moving & Handling, epilepsy, peg-feeding and home oxygen therapy.

**xi. Requiring employers to divulge details of complaints etc in relation to prospective foster carers to the local authority**

The Fostering Procedures in place within The North Ayrshire Council, indicated that it was for the assessing social worker to facilitate checks on prospective foster carers to assess their suitability to foster. This included employer references. Every prospective foster carer required to be informed of this being undertaken as a standard part of the process.

**xii. Reviewing a child's continued residence in foster care or in a particular foster care placement**

Again, The North Ayrshire Council followed the procedures and guidance laid down by Strathclyde Regional Council (completed in 1985 and adapted for use by The North Ayrshire Council in 1997) in respect of Looked After Children.

The Looked After Children Procedures in place within The North Ayrshire Council over this time frame sought to improve practice and procedures for accommodated children and young people, and their families, in order to provide better outcomes for them.

From 2006, in accordance with the introduction of Getting it Right for Every child (GIRFEC), The North Ayrshire Council incorporated into practice the associated developmental dimensions throughout all processes in respect of Looked After Children. 'Altogether Better Care' for Looked After Children Procedures were introduced in 2013 and reflected these associated developmental dimensions; health, education, identity, family and social relationships, social presentation, emotional and behavioural development, and self-care skills.

The 'Altogether Better Care' Procedures (as introduced in 2013) aligned with former Looked After Procedures in respect of frequency of reviews for children in foster care. These reinforced the local authorities' responsibilities in respect of reviewing a child's continued residence in foster care; in particular that a Post Admission Meeting was required to take

place within three working days, a first Looked After Review was required within six weeks of placement and a second review was required within three months of the date of the first review. Thereafter, subsequent reviews were required within six months of the date of the first review.

The principle underlying the Review meeting was to assess the progress of the Care Plan drawn up at the post admission meeting and decide on future plans for the child/young person. This review also sought to ensure a comprehensive and consistent practice throughout North Ayrshire in relation to care planning for Looked After Children and to this end, a set agenda was used by the Independent Chair which largely followed the Care Plan structure.

Generally, the child's allocated social worker would have had a lead role in assessing the appropriateness or otherwise of rehabilitation to parental (or family) care. That assessment would underpin the planning for the child in foster care.

**xiii. Visits to a foster care placement (including frequency, purpose, content, follow up and record keeping)**

There is evidence that The North Ayrshire Council adhered to the statutory requirements for visits as stipulated within The Arrangements to Look After Children (Scotland) Regulations 1996 and The Looked After Children (Scotland) Regulations 2009 and associated guidance. Said Regulations formed part of The North Ayrshire Council procedures pertaining to Looked After Children.

The child's allocated social worker was required to carry out a visit to the child in placement within one week of the placement being made and thereafter, at intervals of no more than three months from the date of the previous visit. Furthermore, The North Ayrshire Council required to ensure that children and foster carers were visited on any other occasion where it was considered necessary or appropriate to safeguard or promote the welfare of the child and/or where reasonably requested to do so by the child or foster carer.

The North Ayrshire Council Fostering Procedures (2007) stipulated that Foster Carer Service Agreements required to be in place which clearly outlined the responsibilities on the Fostering Service to provide support and supervision for foster carers. This was detailed as follows:

- *Each foster carer will have a Family Placement Supervisor appointed at the time of approval as foster carer*
- *The Family Placement Supervisor will meet with the foster carers regularly*



- *Each fostering household will sign a supervision contract that specifically stipulates a minimum of once-per-month visits for formal supervision sessions although in practice, many households receive more regular visits than this*

The Arrangements to Look After Children (Scotland) Regulations 1996 stipulated the requirements in relation to recording, confidentiality and retention of records. These were incorporated within The North Ayrshire Council's Fostering Procedures (2007). The Looked After Children (Scotland) Regulations 2009 provided an updated legislative framework in this respect. The Fostering Service also carried out a minimum of one unannounced visit to the foster placement per year in accordance with The National Care Standards (2005) (Standard 5:8).

**xiv. Transfer of a child from one placement to another (including preparation and support)**

As previously noted, the process regarding the transfer of a child from one foster placement to another was outlined in the local authority's Fostering Procedures (2007). These procedures stipulated that whether this was on a planned or emergency basis, there was a requirement for the Fostering Service to gather a range of information pertaining to the child such as the circumstances that led to the child becoming accommodated by the local authority, the views of the child and parent(s) family composition, what school the child attended, religious affiliation and medical needs. This information would be shared verbally and where possible, formally documented and passed to the identified foster carer either prior to the placement commencing (if the placement was planned), or as soon as possible following the placement commencing (if the child had been placed on an emergency basis). If this was not possible, the minimum expectation would be for the foster carer to be informed verbally of the child's needs and circumstances. In addition, the Service would also subsequently facilitate a Post Admission Meeting within three working days of a placement occurring, with the express purpose of information gathering in relation to the child and ensuring that the foster carer(s) had all relevant information to provide the most suitable and well-informed care for the child. This formal meeting would also clarify the arrangements for the child in terms of contact with birth family members as well as ensuring the foster carer(s) had all pertinent information in relation to the child's needs and circumstances.

The Foster Carer Service Agreement (2007) also highlighted the following responsibilities for foster carers:

- To help prepare the child to return to his/her parents or be placed with alternative carers, where this is the Looked After Care Plan
- To allow the child to be removed from the foster home by the local authority where the placement is terminated

Over the course of the relevant time frame, the Fostering Service developed disruption procedures which could be utilised when a placement ended unexpectedly. This meeting involved all relevant professionals, foster carers and the child (if considered appropriate) and aimed to consider the circumstances that led to a placement disrupting and to identify learning for the Service and for those involved in the care/support to the child/young person. This also allowed for consideration of any action required in relation to the foster carer, including recognition of training needs, further support and/or review of approval status.

**xv. Transfer of a child between foster care and residential care (including preparation and support**

The procedure relating to the transfer of a child from foster care to residential care was not specified within the Fostering Procedures (2007) however in practice this would follow the procedures as outlined in Section 4.2 (i)(d)(xiv).

**xvi. Child protection**

Strathclyde Regional Council's Child Abuse Procedures, which were implemented in 1983 and updated in 1989, were adapted for use by The North Ayrshire Council in 1997 in relation to child protection practice (including complaints within foster care).

From 2011 onwards, The North Ayrshire Council had in place reviewed and updated Child Protection Procedures. These were derived from the National Guidance for Child Protection in Scotland (Scottish Government, 2010) and the West of Scotland Child Protection Procedures in 2011. Said procedures were reviewed and updated by The North Ayrshire Council over consecutive years, in accordance with national guidance (National Guidance for Child Protection in Scotland, (2014)).

Additionally, the Fostering Procedures (2007) stated that where necessary, any fostered children and birth children of the foster carers may be removed from the care of the foster carers until such times as any Child Protection Investigation was completed to satisfaction. The supervising social worker was tasked with ensuring that foster carers were kept fully informed and appraised of independent support available to them. Once the Investigation was completed, the supervising social worker was required to complete a report and, where appropriate, request a Foster Carer Review to explore the findings. The Fostering Panel could amend or change the approval status of the foster carer(s), and this could have resulted in de-registration. Additionally, it was noted that this may have resulted in no further placements being made with the said foster carer and the original children in placement placed in an alternative foster placement on a long-term basis. In these circumstances, the return of any birth children would also be managed via the Child Protection Procedures of the time with the foster



carer(s) being required to work with child protection measures in the same way any other family would be in circumstances where serious care concerns had been raised against them.

A central stipulation of the Fostering Procedures (2007) was that they required to be operated in conjunction with the North Ayrshire Child Protection Procedures in place at the time. The North Ayrshire Council Child Protection Procedures were updated in 2011 and 2014 and provided specific guidance in relation to the management of allegations of abuse within foster care. These procedures subsequently informed all child protection practice within The North Ayrshire Council.

Within all policies and procedures (Child Protection, Looked After Children and Fostering Procedures) the welfare of children was the paramount consideration. It was stipulated that The North Ayrshire Council would adopt an approach that was proportionate, fair and thorough and which retained at the centre the safety of the child.

#### **xvii. Complaints handling**

Complaints made by children relating to potential abuse were considered under Child Protection Procedures. This could result in either an internal or external investigation dependent on the complaint and severity of assessed harm or risk. Children's views, feelings and consideration to their immediate safety and well-being were expected to be fully appraised and acted upon appropriately.

The Fostering Procedures (2007) stipulated that children/young people wishing to make a complaint about the foster carer, Social Services or any other aspect of their care should be encouraged to use the Council's Customer Comments Scheme and given assistance to do so where required by the foster carer(s) or social worker as appropriate. In effect, the unwritten policy was that children were advised by their allocated social worker of their role to support them in relation to any aspect of their care and therefore a child who raised any complaint about their care would be supported by their social worker to progress this through the above formal route if appropriate. As mentioned elsewhere in this report, children in foster care also had access to independent advocacy from Who Cares? Scotland who were available to provide representation in relation to complaints or concerns regarding their foster placement or any aspect of their care. Similarly, it was custom and practice for the child's allocated social worker or the advocacy worker representing them to verbally provide feedback to children on the outcome of complaints/concerns raised.

In relation to foster carers, The North Ayrshire Council Fostering Procedures in place over the relevant timeframe stipulated that any complaints made about foster carers were to be rigorously investigated with carers treated consistently, fairly and with consideration. Carers were to be given as much information as possible about the concern/complaint/allegation(s) and the scope of the investigation clarified

at the earliest possible point compatible with a thorough examination. The role of the supervising social worker was to advise carers of the reasons for the removal of children (if applicable), contact arrangements for each member of the carer's family with each child affected by the allegation, the ongoing status of their approval as carers and to keep carers updated on the progress of the investigation both verbally and in writing. Supervising social workers were also tasked with supporting carers to understand that in the event of their resignation, this would not affect the progress or outcome of the investigation.

If any of the above matters had not been decided when the foster carers were first informed about the allegation, any remaining information was to be provided within two working days of the relevant decisions having been made.

In relation to complaints made by foster carers generally (that did not relate to the child's welfare) the Fostering Procedures (2007) outlined that all complaints by carers for themselves or on behalf of children or young people would be dealt with under The North Ayrshire Council's Complaints Procedures. Where a carer was making representations for her/himself or on behalf of a child or young person, the link worker and the child or young person's worker (when appropriate) would meet with the carer as soon as possible to discuss matters and resolve them if possible. Part of this meeting was intended to ascertain whether the issue could be resolved, whether it required to be treated as a formal complaint or should be the subject of an appeal by the carer or be taken forward under childcare procedures. If the matter was to be treated as a complaint, the carer was to be helped to make a written or formal verbal complaint to The North Ayrshire Council, on behalf of her/himself or the child or young person. The complaint would subsequently be passed to the senior staff member designated to deal with these matters and acknowledged within 3 working days whereby The North Ayrshire Council's complaints processes was activated. At the conclusion of the process, the detail of the complaint, the process of investigation, and the outcome was generally fully recorded and became part of the carer's file.

The procedure in relation to complaints handling in respect of foster carers was reinforced, reviewed and amended within the relevant Foster Carer Service Agreement in place over this time frame. From the rollout of the Fostering First and Fostering Xtra schemes in 2011, this was as follows:

*In the event of any dispute between a foster carer and the Fostering Service, both parties should endeavour to resolve this amicably within 2 weeks of the dispute arising. If this is not possible, a letter outlining the manner of the dispute should be sent by the complainer and an acknowledgement of receipt of said letter returned within 5 calendar days. If no response within 14 calendar days, or if the complaint cannot be resolved, there is an option to convene a meeting with three working days' notice. At this stage, a Foster Carer Review will be convened if agreement cannot be reached. If this matter remains unresolved forthwith, it will be referred to the Fostering & Adoption Panel and a recommendation would*



*then be made to the Head of Service Children & Families/ Agency Decision Maker with regards the foster carers continued registration.*  
(Source: Foster Carer Service Agreement, 2011)

Please see Section 4.7 generally for further information regarding complaints and reporting.

#### **xviii. Whistleblowing**

There was no recorded procedure in relation to whistleblowing for foster carers during the relevant time period, however carers were made aware of their obligations in this regard. The North Ayrshire Council had a corporate whistleblowing policy which was updated periodically, including in 2011.

Please see Section 4.1 (e)(vii) for further details.

#### **xix. Record retention**

An Information Records Management Policy was in operation within The North Ayrshire Council between 1996-2014. This was reviewed and updated in accordance with national changes in legislation. For further information, please see both Section 4.1 (c)(viii) and Section 4.9 generally.

#### **e) Who compiled the policies and/or procedures?**

Operational policies and procedures in respect of social work were compiled by the Senior Management Team in place at the time and prepared collectively. These were subsequently agreed and ratified at The North Ayrshire Council Workforce Planning Group which was chaired by the Director of Social Work.

#### **f) When were the policies and/or procedures put in place?**

Policies and procedures were dated to identify when they were introduced and when amendments or updates were made.

#### **g) Were such policies and/or practices reviewed?**

From its inception in 1996, The North Ayrshire Council kept abreast of developments in national legislation, policy and guidance. Throughout this time frame, this resulted in changes to custom and practice which formed the unwritten policy for the Fostering Service and the wider authority. Formal procedures were also in place and were reviewed and updated as outlined elsewhere in this report.

**h) If so, what was the reason for review?**

As above, the written and unwritten Fostering Procedures were reviewed and updated in accordance with legislative and policy changes and national guidance.

The Foster Carer Service Agreement was reviewed and updated throughout the relevant time frame to reflect changes in the Fostering Service's expectations of foster carers, new initiatives and associated requirements (for example, the IMPACCT scheme to meet the specific needs of children with disabilities). This was further updated in 2011, in recognition of the new Fostering Schemes introduced (Fostering First and Fostering Xtra). This was in line with statutory requirements and to reflect the increased professionalism and amended terms/conditions and expectations on foster carers.

**i) What substantive changes, if any, were made to the policies and/or procedures over time?**

Substantive changes resulted principally from national developments in legislation or updates to national policies and procedures. One such example of a substantive change was made with the introduction of The Looked After Children (Scotland) Regulations 2009 which increased the retention period required for foster carer records from ten years to twenty-five years.

**j) Why were changes made?**

Please see Section 4.2 (i)(g) above for clarification.

**k) Were changes documented?**

Updated written policies and procedures superseded previous documents and a primitive form of version control was employed by the Fostering Service.

**l) Was there an audit trail?**

Please see Section 4.2(i)(k) above for clarification.

**Present (2015 – August 2019)****m) With reference to the present position, are answers to the above questions different?**

Yes.



**n) If so, please give details**

Alongside the formal programme of foster carer training offered by the Fostering Service (which has been described in detail at Section 4.2 (i)(x)), the Foster Carer Handbook (2018) also outlines the following in relation to foster carer training:

*Continuous Practice Development will apply to all foster carers and be offered as Core Skills Training and more specialised training intended to address the needs of individual foster carers in relation to the care needs of a specific child. Foster carers are also encouraged to take responsibility for their own professional development and source information and learning through personal research and reading. Licences are also available for on-line training through AC Education and foster carers are encouraged to speak to their Supervising Social Worker to access these.*

(Source: Foster Carer Handbook, 2018)

The Fostering Procedures (2018) also outline the new approach and ethos of the Fostering Service to the Nurture Principles and a roll out of practice development for all foster carers in this way of working with children. This approach is also adopted within educational establishments in North Ayrshire. By adopting a consistent approach throughout the local authority, it is the aim that this will promote child welfare and support children to thrive in all aspects of their life.

In respect of updated policies and procedures, since the inception of The North Ayrshire Council Health and Social Care Partnership in 2015, these have been ratified by The North Ayrshire Health & Social Care Partnership Governance Board.

The North Ayrshire Council's corporate whistleblowing policy was last updated in February 2020.

**(ii) Practice**

It should be noted that whilst policy/procedures provided a framework for the Fostering Service, they will not have provided for every eventuality. Professional judgement will have also played a key role.

**Past (1996 – 2014)****a) Did the local authority adhere in practice to its policy/procedures in relation to the provision of foster care?**

There is evidence from file review that The North Ayrshire Council adhered in practice to its policy and procedures in relation to the provision of foster care. This is further detailed in each sub-section below using examples from Care Commission Reports and Care Inspectorate Reports undertaken since the Service became registered in 2005 (where available). Further evidence of adherence can also be seen within extracts from Care Commission/ Inspectorate Reports contained within, Section 4.1 generally.

**b) Did the local authority adhere in practice to its policy/procedures on the following:**

**i. Child welfare (physical and emotional)**

Within The North Ayrshire Council, the LAAC nurse was invited to Post Admission Meetings, and healthcare needs were routinely discussed at children/young people's Looked After Reviews. If required, the medical advisor and the LAAC nurse would link with foster carers to provide advice and information in relation to specific young people.

*"There was good evidence of joint working to support children and young people with complex physical and emotional needs. Funding continued to be available to support individual young people to take part in specific activities and interests."*

(Source: Care Commission Report dated 24<sup>th</sup> March 2009, completed by Annabell Nicolson, Care Commission Officer).

*"The service promoted the health needs of the children living in foster care and good links were in place with the Looked after Children nurse and paediatric services. Admission health checks were carried out. This also included sexual health information, smoking cessation, dietary advice and help with behaviour associated with trauma."*

*Younger preschool children attended toddler groups to enhance social skills development. There continued to be very good outcomes for children for example, reduced anxiety levels, improved educational performance and development of social skills."*

*Children were observed to be happy and relaxed in placements, had good attachments to foster carers and thriving in placements. Examples included; children with global development delay 'catching up' with peers, children born with neonatal abstinence disorder gaining weight, meeting developmental milestones and no longer dependent on medication."*

(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).

Further evidence of adherence in practice in relation to child welfare (physical and emotional) is contained generally within Section 4.1.

**ii. The child's views**

As noted in Section 4.1 (e)(ii), The North Ayrshire Council worked in partnership with external organisations, namely Who Cares? Scotland to better support children to express their views effectively. Children were also supported to complete 'Having Your Say' forms for formal meetings such as Looked After Reviews and Children's Hearings. Children's views were sought by Who Cares? Scotland to inform Foster Carer Annual Reviews.



Evidence of such is contained within the following Care Commission Reports:

*"A variety of methods were used by the service to obtain the views of service users and carers. The service routinely invited young people and carers to evaluate reviews and events that they attended."*

*"The two young people who were interviewed talked about being involved in the 'Viewpoint' pilot and how it "was more fun than the form ('Having Your Say') as we got a game to play". They confirmed that they were able to keep in touch with people who were important to them. They knew that they could get support from 'Who Cares' and Children 1st if they needed it. They also said that their foster parent and the school gave them information about health matters."*

(Source: Care Commission Report dated 24<sup>th</sup> March 2009, completed by Annabell Nicolson, Care Commission Officer).

Please see Section 4.1(e)(ii), for further evidence of adherence in respect of children's views.

### **iii. Placement of siblings**

The co-location of siblings within foster placements was a priority for the Service and there is evidence that this was adhered to where possible. From files read, there were also occasions when it was assessed that children, due to a range of issues, were not safe to be placed together, or remain within the same placement.

There is also evidence that this occurred where the sibling group was large and service capacity did not allow for all the children to be placed together in the same fostering household. Where this occurred, it is clear from files read that careful consideration was given to the nature of the sibling relationships and placements arranged around what was considered to be in the children's best interests.

Where siblings were separated, and where contact between them was deemed to be in their best interest, foster carers facilitated and supported regular contact. There is evidence from files read that the Fostering Service sought to place siblings together within the same placement at the earliest possible opportunity, if appropriate.

If children could not be placed together/remain within the same placement because it was assessed as detrimental to do so and this could not be resolved, there is evidence, from files read, that this was fully considered within Looked After Reviews and in Permanence Procedures during this period. Where agreed appropriate, a sibling separation report was completed by the allocated social worker for consideration by the Director of Social Work/Head of Service for Children and Families. This assessed all aspects of the children's needs and measured risks to them together or apart. Any long-term separation required this authorisation, said

authorisation to be evidenced at the local authorities consultative planning group for permanence (PPG) and any subsequent Adoption and Permanence Panel.

#### **iv. The placement of a child in foster care**

Where it was possible to do so, the placement of a child in foster care was actioned following a full assessment of the child's circumstances having been undertaken and all other family options explored. In practice however many children were accommodated on an emergency basis as a direct consequence of immediate risk or concerns and a wider assessment of alternative family carers was not always possible at that time. In these circumstances, as much information as possible was gathered in relation to children's immediate health needs, daily routines, education, likes/ dislikes and views about becoming accommodated and this was provided to foster carers verbally and where possible, in written form. Fuller information regarding children's needs was shared with the foster carer either prior to or during the Post Admission Meeting which was held within three working days of the child becoming accommodated. From files read, practice within The North Ayrshire Council in relation to the placement of a child in foster care adhered to the procedures outlined in Section 4.2 (d)(v). The following information was extracted from a Care Commission Report, compiled during the relevant time frame, and provides evidence of The North Ayrshire Council's adherence:

*"When emergency placements were made, there was evidence that information about the child's preferences and routines was provided to foster carers within a short timescale. To ensure that living arrangements were appropriate for children using the fostering and Impact services, risk assessments of the home environment were undertaken during the assessment process and reviewed prior to foster carer reviews. Completed safe caring assessments were clear and informative."*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

#### **v. The particular placement of a child with foster carers**

Within North Ayrshire, children were only placed with approved foster carers who had signed the Foster Carer Service Agreement. This was in line with the requirements of the Looked After Children (Scotland) Regulations 2009.

From files read, there is evidence that in practice The North Ayrshire Council adhered to procedures in place relating to placement of a child in foster care. These procedures related to all fostering schemes in place over this time frame. In accordance with the procedures, foster carer profiles in the form of a child friendly booklet was provided to children in preparation for the placement. A service priority was to match the foster carers circumstances, skills and abilities to the child's needs, and it was custom



and practice for this to be promoted where at all possible. In practice, discussions to this effect would usually occur between numerous staff members including senior managers for the Fostering Service, social worker for the foster carers, the child's allocated social worker and their own manager. Foster carers would also be informed of expectations placed upon them in relation to the facilitation of birth family contact and transportation to and from the appropriate educational placement.

Further evidence of adherence to the procedures can be found in the following extracts from a Care Commission Report undertaken during the relevant time frame:

*"Examination of records and interviews confirmed that, whenever possible, children and young people were given the opportunity to meet with carers in a planned way prior to placement. Family members were involved in this process if the care plan supported such arrangements and if it was in the best interests of the child."*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

*"The Impactt service had an effective linking process that helped to ensure that young people were matched with appropriately skilled carers. A social worker with a young person using the service described how time was taken to find the right carer...Introductions were done at the young person's pace and a strong, trusting relationship had developed."*

*"Carer Profiles had been developed for fostering Xtra families to give to young people who may be placed with them. Plans were in place to roll out this model across the service"*

(Source: Care Commission Report dated 17<sup>th</sup> December 2009, completed by Joy Hill, Care Commission Officer).

*"If possible, children and young people visited and/or were provided with information about the foster home prior to admission. Information booklets gave detail of the foster family composition, interests and hobbies and photographs. Children and young people felt this helped them to familiarise themselves with the family prior to admission. Introductions were made to respite carers prior to the respite period. One young person advised he chose his respite carer"*

(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland, Inspector).

#### **vi. Contact between a child in foster care with his or her family**

Foster carers were contractually required to encourage and promote contact between the child and his/her family, where this was in the interests of the child and part of the child's Looked After Care Plan/Statutory Order. Files from earlier in the relevant time period show evidence of practice where foster carers often supervised a child's family contact within the fostering household. This practice changed over time, with the

responsibility for supervising contact with birth parents assumed by social work staff and foster carers facilitating and supporting this. Foster carers retained responsibility for supervising sibling contact where this was deemed appropriate.

*“Care plans and discussions with children and young people in foster care confirmed that the service considered contact between children and their families. Carers indicated that they were fully informed of contact arrangements between the children and their families and on occasion were involved in the process if appropriate.”*

*These arrangements were considered at LAAC (Looked After and Accommodated) reviews where carers and children’s views were taken into account, and decisions were made regarding the child’s care plan. Decisions made were recorded in the review minute which was circulated to all relevant parties.”*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

*“There was evidence that children and young people were supported to maintain friendships, if this was safe to do so. Foster carers helped facilitate contact between children and family members and contact arrangements were seen to be well organised and consistent with contact agreements.”*

(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).

**vii. Contact between a child in foster care and other siblings in foster care.**

There is evidence from files read that practice within The North Ayrshire Council adhered to the procedures in relation to promoting and encouraging sibling contact. Where sibling groups were separated, it was common practice for foster carers to informally arrange to meet with relevant other foster carers to facilitate sibling contact. In some cases, sibling contact was stipulated within a legal order.

**viii. Information sharing with the child’s family**

In practice, information sharing took many forms, including attendance and report sharing at formal meetings (such as Looked After Reviews), regular use of communication diaries or informal discussions before, or after, face-to-face contact sessions. Foster carers would usually be involved in transporting children to and from birth family contact sessions and as such, would have “handover” contact with birth family.

Foster carers maintained records in relation to the child’s development and progress, which they shared with their supervising social worker (who in turn shared the information with the child’s allocated social worker).



Additionally, a communications diary was frequently used between birth parents, or extended family members, to share information about the child's progress and development whilst they remained in foster care.

**ix. Fostering Panels (including constitution, remit, frequency and record keeping)**

There is evidence that practice within The North Ayrshire Council in relation to Fostering Panels adhered to procedures in place.

Please see below an example of such adherence, contained within the Care Commission Report dated 6<sup>th</sup> June 2006:

*"Appropriate procedures were in place for setting up and running the Fostering Panel and for the appointment of Fostering Panel members. Letters of appointment had been issued to Fostering Panel members. Fostering Panel members had a broad range of backgrounds and experiences and included medical and legal representatives, an experienced foster carer and adoptive parent. Fostering Panel members confirmed that they were subject to Disclosure Scotland checks prior to their participation in the Fostering Panel"*

*"There was evidence of good practice regarding Fostering Panel member induction and on-going training.*

*All Fostering Panel members understood their role in relation to making recommendations and the agency's role in decision making. This was clearly explained to applicants attending the Fostering Panel.*

*Fostering Panel members were provided with detailed reports well in advance of the meeting to ensure they were knowledgeable about the cases to be presented and able to make informed recommendations. The Fostering Panel's decisions and recommendations were clearly recorded in a minute which was approved by the Fostering Panel members. Fostering Panel members were provided with information about the appeals procedure. The procedure for reconsidering applications and hearing appeals against decisions was clearly defined and explained to applicants."*  
(Source: Care Commission Report dated 6<sup>th</sup> June 2006, completed by Isobel Dumigan, Care Commission Officer)

Further evidence of practice in relation to Fostering Panels in The North Ayrshire Council can be seen in subsequent Care Commission Reports and Care Inspectorate Reports (SD 6-15, Care Commission/Care Inspectorate Reports 2006 - 2019). Over this time frame, there was evidence that paper and/or electronic records were maintained in relation to prospective and approved foster carers. These were retained in line with The North Ayrshire Council retention schedules which in turn conformed to legislative requirements.

## x. Recruitment and training of foster carers

The North Ayrshire Council Fostering Service, in practice, provided a wide range of training opportunities for foster carers. This included the core training as detailed in Section 4.2 (i)(x). Additionally, online training programmes were also provided which offered support for presentation skills and case recording, communicating with children about separation and loss, information about social media and child exploitation. Courses facilitated by external agencies such as The Fostering Network, including 'Men Who Foster' (which focussed on the unique aspects of being a male foster carer) were also provided. In addition, The Fostering Service funded additional training for foster carers provided by external agencies such as British Association of Fostering & Adoption (BAAF), Fostering Network and Children in Scotland. Specialist training was also available including sexually harmful behaviour, attention deficit disorder and foetal alcohol syndrome disorder (FASD). Some Fostering Xtra Carers also completed SVQ Level 3 Health & Social Care.

Furthermore, the Service also offered access to online training courses as well as evening and weekend courses aimed at the partners of the main foster carer, to ensure that partners also had accessible training opportunities to accommodate their own working schedules.

Over the relevant time frame, practice within the Fostering Service developed in line with emerging research and knowledge in relation to the impact of adverse childhood experiences on Looked After Children, particularly in relation to the life-long impact on children should they not receive targeted support and intervention. This resulted in an increased awareness and focus on trauma-informed practice. The North Ayrshire Council Fostering Service subsequently incorporated, within foster carer training, models of therapeutic caregiving, such as the Secure Base Model (Schofield & Beek, 2004). The Fostering Service were also committed to learning from Significant/Serious Case Reviews and Inquiries relating to Looked After Children (albeit there have been no such local reviews).

The following information from Care Commission Reports demonstrates adherence in practice to procedures in relation to training of foster carers:

*"Carers confirmed that they were offered and accessed a good range of training opportunities which supported them to care for the children and young people placed with them."*

*"Foster cares and shared carers commented that training was comprehensive and tailored to a lot of children's needs"*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

*"There was evidence that training courses in alternative communication methods had been arranged for specific carers to enable them to communicate more effectively with individual young people. These included Signaton, Makaton and PECS (Picture Exchange communication system)"*



(Source: Care Commission Report dated 24<sup>th</sup> March 2009, completed by Annabell Nicolson, Care Commission Officer).

For further information regarding adherence to policy and procedures in relation to training and recruitment, please see Section 4.4 (ii)(b)(i).

**xi. Requiring employers to divulge details of complaints etc in relation to prospective foster carers to the local authority**

There was limited evidence, from older files read, that employers were contacted in writing by the local authority in relation to a prospective foster carer. This practice developed in the early 2000s, whereby a positive employee reference was paramount to the success of the application. If employer checks were returned with concerning or unsatisfactory comments, the assessing social worker would be required to present the information to the Fostering Panel for consideration. In such cases, the Fostering Panel would in all likelihood make a recommendation not to approve the applicants as foster carers. The Fostering Service also carried out a redesign of reference paperwork from 2007 to ensure that this was necessarily robust and covered the required areas.

The undernoted quote is indicative of adherence to the policy relating to the completion of necessary checks and is contained within the Care Commission Report dated 6<sup>th</sup> June 2006:

*“Records showed that all necessary checks were completed as part of the assessment and approval process. Carers interviewed commented that support from their link workers was “very good”. Most carers interviewed confirmed their awareness of the Care Commission National Care Standards.”*

(Source: Care Commission Report dated 6<sup>th</sup> June 2006, completed by Isobel Dumigan, Care Commission Officer).

**xii. Reviewing a child’s continued residence in foster care or in a particular foster care placement.**

The North Ayrshire Council had robust reviewing mechanisms in place for children in foster care. These were outlined within the Looked After Procedures adopted by The North Ayrshire Council over the relevant time frame. From files read, it was evident that in practice, formal reviews often occurred more regularly than mandated within the procedures.

The following extract from Care Commission reports, provides evidence of adherence in relation to reviewing:

*“These arrangements were considered at LAC (Looked After and Accommodated) reviews where carers and children’s views were taken into account, and decisions were made regarding the child’s care plan.*

*Decisions made were recorded in the review minute which was circulated to all relevant parties."*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

*"Children's needs were regularly reviewed and foster carers supported decisions made as part of the care plan."*

(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).

Further evidence of adherence to Looked After Procedures in respect of reviews for Looked After Children, can be found in extracts from Care Commission Reports and Care Inspectorate Reports, contained generally in Section 4.1.

**xiii. Visits to a foster care placement (including frequency, purpose, content, follow up and record keeping).**

From files read, recording of visits to foster placements significantly improved over the relevant time frame. From 2007 onwards, there was a contractual responsibility on the Fostering Service to provide monthly supervision to foster carers. There was evidence that this was carried out, as per procedures, alongside additional support visits and telephone contact by the supervising social worker with the foster carer as required. Over this timeframe, record keeping was maintained both in paper files and/or electronically, and audits were conducted by the Managers of the Service to assess quality and frequency of recording.

There was also evidence that visits to foster placements were carried out by the child's allocated social worker and unannounced visits by the supervising social worker were carried out a minimum of once per year.

Evidence of adherence in relation to visits to foster care placements is provided by the following extract from Care Commission Report (2013):

*"The quality of care provided to children was monitored through regular visits to the foster home, foster home reviews, LAC reviews and unannounced visits by family placement workers to foster homes."*

(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).

Further evidence of adherence in relation to visits to foster care placements can be found in Section 4.4 (ii)(b)(ix).



**xiv. Transfer of a child from one foster placement to another (including preparation and support)**

There was evidence from files read, that practice varied over the relevant time frame in relation to the preparation and support to children transferring from one foster placement to another. Good practice was shown where appropriate planning, introductions and sharing of information about the new foster carers took place between the child, birth parents, both sets of foster carers and the Fostering Service. This is evidenced in the following extracts from the Care Commission Report (2007) and Care Inspectorate Report (2015):

*“Children and young people were given the opportunity to meet with carers in a planned way prior to placement”*

(Source: Care Commission Report dated 22<sup>nd</sup> October 2007, completed by Annabell Nicolson, Care Commission Officer).

In practice, however, placements often ended suddenly and there was limited opportunity for appropriate planning and preparation. In these circumstances, there was evidence that where possible, matching took place and the new foster carers were provided with relevant information about the child. The child was also advised about the reason for the move in an age appropriate manner by their allocated social worker and given as much information as was available at the time about the new foster carers prior to meeting them.

Where appropriate, and with the child’s agreement, contact was at times maintained between the child and the previous foster carers. This was either in the form of a one-off closure visit, or ongoing contact to maintain the relationship.

Where placements disrupted, there was evidence that The North Ayrshire Council had processes in place that considered the reasons for this and offered opportunities for reflection.

*“The service sought the views of children when placements hadn’t worked out. Disruption meetings had been held and there was evidence the carers and children were given time to reflect on issues and supported to resolve differences, even when not re-uniting. There was evidence of good endings for children moving on. This had included planned moves and where appropriate, ongoing contact with foster carers. Some young adults remained in touch with foster carers despite a number of years having passed.”*

(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).

File review indicates that a Post Admission Meeting was held within three days of the placement move, in accordance with Looked After Procedures, and a day-to-day ‘placement agreement’ and updated care plan was formulated for the child at that time.

**xv. Transfer of a child between foster care and residential care (including preparation and support)**

In practice, the Fostering Service was committed to sustaining children and young people within a family setting. Where difficulties emerged relating to a child in foster care, reasonable steps were taken by relevant professionals to avoid disruption and sustain the placement, if safe and appropriate for the child.

Transfer of children from foster care to residential care was, in practice, managed in a similar manner as children moving between foster care placements. Where it was possible to do so, all moves for children in foster care were carried out on a planned basis. On such occasions, the move to residential care was usually requested by the child and, where possible, preparation and support was offered in the form of visiting the residential house to meet the staff and other young people prior to the move. In practice however, the child was often moved on an emergency basis. Such moves usually occurred when the child was unable to be safely cared for within a substitute family environment. This was usually because of increased risk or break down in relationships within the foster placement. In such circumstances, it was not possible to plan, prepare and support the child for an impending move, as would have been best practice. Where this occurred, the child/young person's social worker or the supervising social worker for the foster placement offered support to the child/young person to understand the reasons behind the move and help with the transition.

There is evidence that a disruption/end of placement meeting was held on necessary occasions, involving relevant professionals and the foster carers. The purpose of this was to explore the circumstances that led to the placement breakdown in order to identify any learning for the Service and those involved in the provision of care and support to the child/young person. This also allowed for consideration of any action required in relation to the foster carer, including training needs, further supports and review of approval status.

Evidence of adherence to procedures in respect of the transfer of children can be seen in the extracts from the Care Commission Report and Care Inspectorate Report contained within Section 4.2 (ii) (b) (xiv).

**xvi. Child protection**

There is evidence that The North Ayrshire Council adhered in practice to procedures in relation to child protection. Decision making pertaining to child protection was a collaborative approach, often involving field work teams, police and health, with the child's allocated social worker deemed as the Lead Professional. Over the relevant timeframe, there was an increased focus on multi-agency approaches and this was reflected in practice developments. The North Ayrshire Council had in place updated



Child Protection Procedures, which were fully implemented across the Children and Family Service.

Within these Child Protection Procedures, there was recognition that management of child protection in foster care (and its associated risks) was complex. In practice, decisions about risk in relation to Looked After Children in foster care were taken by the appropriate managers in place at the time. Decision making could be influenced by a number of factors, including, although not restricted to, evidence of significant harm, assessed risk, child's views, professional thresholds, child's previous experiences, knowledge of foster carers practice, previous child protection concerns relating to the foster carer, relationship between the child and the foster carer, awareness of stressors for the child and foster carer and the foster carer's ability to work in partnership with the Service to safeguard and manage risks appropriately in the future.

See Section 4.1 (e)(iv). Child protection, for further evidence of adherence in practice to procedures in respect to child protection.

#### **xvii. Complaints handling**

There is evidence that The North Ayrshire Council Fostering Service adhered in practice to procedures in relation to handling of complaints. Complaints were followed up and recorded.

It was unwritten policy, but established as custom and practice, that a child's allocated social worker would represent and advocate for them in relation to any complaint/concern relating to their care and most children were advised of this when first placed in foster care (age and stage appropriately). This could involve supporting a child through the local authority formal complaints process (as outlined within the Fostering Procedures (2007) if appropriate or progressing the complaint directly with the Fostering Service.

Where a complaint indicated that abuse to a child in foster care may have occurred, this was investigated in accordance with Child Protection Procedures. Where such a complaint/allegation was made by a child, they were offered representation and support by their allocated social worker throughout the investigation process. It was custom and practice that information on the outcome of an investigation into a complaint/allegation would take the form of verbal feedback to the child, delivered in a manner that was age and stage appropriate and which took account of the child's individual needs.

Foster carers were provided with information about how to complain using The North Ayrshire Council Complaints process (Listening & Learning) and/or to Care Inspectorate. In practice, complaints made by foster carers were attended to expediently by the Service and, where it was possible to

do so, resolved at the earliest stage by the supervising social worker and/or the Team Manager of the Fostering Service.

Please refer to Section 4.1 (e)(vi) for further information.

Where complaints were made regarding foster carers from sources other than the child (i.e. child's birth family, community or other agencies), consideration was given to the nature of the complaint. Where this was deemed to be a child protection concern, Child Protection Procedures were implemented, and children supported as outlined above.

For further information in relation to the management of allegations and child protection in general please refer to other relevant sections within this report.

### **xviii. Whistleblowing**

The North Ayrshire Council Fostering Service did not have specific procedures in place in relation to whistleblowing over the relevant time frame. In practice however, from files read, there is evidence that when foster carers raised allegations/complaints about other foster carers these were followed up and investigated either under the Child Protection or Complaints Procedures in place at that time.

Please see Section 4.1 (e)(vii) for evidence of adherence.

### **xix. Record retention**

There is evidence that The North Ayrshire Council, in general, retained all records and documentation necessary pertaining to foster carers and Looked After Children. These have been retained in both paper files and since 2002, within the local authority's electronic recording system (Carefirst). It is acknowledged that file review undertaken for the purposes of informing the Inquiry submission has revealed some partial records and gaps in information relating to some allegations and complaints of abuse against children in foster care. It is recognised that practice in relation to case recording has evolved over time and therefore the importance of full and detailed recording may not have been given the same emphasis historically compared to current expectations and requirements of the Service.

### **c) How was adherence demonstrated**

Available information was gathered and analysed to inform this response to the Inquiry. Collectively, they demonstrate adherence. Sources include:

- Fostering Assessments



- Employee References
- Foster Carer Service Agreements
- Foster Carer Training Records
- Foster Carer Supervision Records
- Foster Carer Review paperwork
- Fostering Panel Minutes
- Foster Carer and Child Case Records
- Minutes from Child Protection Conferences/Discussions
- Minutes from meetings where concerns regarding foster carers practice were considered
- Record of Senior Management consideration and oversight of foster carer Practice in relation to some complaints/allegations
- Complaints Log
- Records of allegations/complaints registered with the Care Inspectorate
- Files read (foster carer and children) for the purpose of this Inquiry
- Looked After invitations, Reports and Minutes
- Discharge and Admission paperwork
- Health/Education Reports relating to Looked After Children
- 'Having Your Say' reports in relation to Children's Views
- Who Cares? Scotland independent advocacy reports for children in foster care
- Foster Carers Communication Diaries
- Sibling Assessments
- Children's Hearing Reports/Core Assessments
- Contact Plans
- Care Commission Reports and Care Inspectorate Reports
- Statutory Annual Service Returns to the Care Inspectorate.

**d) How can such adherence be demonstrated to the Inquiry?**

Adherence can be demonstrated to the Inquiry through provision of available records and information outlined in Section 4.2 (ii)(c).

**e) Were relevant records kept demonstrating adherence?**

Records that demonstrate adherence are fully outlined in Section 4.2 (ii)(c). These have been retained by The North Ayrshire Council in line with record retention schedules as provided for by statute.

It is acknowledged that file review undertaken for the purposes of informing the Inquiry submission has revealed some partial records and gaps in information relating to children in foster care. It is recognised that practice in relation to case recording has evolved over time and therefore the importance of full and detailed recording may not have been given the same emphasis historically as befitted the expectations and requirements of the Service.

**f) Have such records been retained?**

Records have been retained. Please see Section 4.2 (ii)(e) above.

**g) If policy/procedure were not adhered to in practice, why not?**

There is evidence that The North Ayrshire Council Fostering Service generally adhered in practice to the procedures outlined in relation to the above sections. Any factors impacting upon levels of compliance are detailed accordingly within the relevant responses.

Whilst foster carers were supported via various means such as regular supervision sessions, training opportunities (both internal and external) and support groups, there were times when practice concerns, complaints or allegations arose because procedures were not adhered to by said carers. When this occurred, there was evidence that the Fostering Service assessed practice and determined the most appropriate action, with the child's safety and welfare being paramount. The possible actions taken were additional training for the foster carer or use of an improvement plan, additional support to the child and foster carer and monitoring of the placement, Foster Carer Review or child(ren), moved to alternative carers. If the practice and risk was deemed to be unacceptable, foster carers were presented to the Fostering Panel and de-registration was considered. Should the Fostering Panel have considered that resignation or retirement was acceptable for such carers, it was noted that concerns should be recorded in respect of the foster carers practice and shared with other agencies in the event that said carers made a future approach to foster for another agency or local authority.

**h) If policy/procedure were not adhered to in practice, what was the practice?**

There was a range of practice that was assessed as not in keeping with policy and procedure. Examples of such are undernoted:

- Foster carers being overly strict with house rules
- Foster carers failing to adhere to pre-agreed safer caring policies i.e. being inappropriately dressed around the home and/or failing to ensure children did not enter foster carers' bedrooms
- Foster carers failing to emotionally regulate their own responses to children in their care
- Foster carers using any form of physical chastisement or shaming in relation to Looked After Children
- Foster carers refusing to adhere to care plans, including contact arrangements, between children and their birth parents



**Present (2015 – August 2019)**

- i) With reference to the present position, are the answers to any of the above questions different?**

Yes.

- j) If so, please give details**

The North Ayrshire Council continues to promote and prioritise children's views in accordance with national and local policy and procedures and adhere to all responsibilities in respect of this. Recently there has been a change in service provision and now Barnardo's (Scotland) provide independent advocacy support for children who are Looked After by The North Ayrshire Council.

Several training courses for foster carers have been reviewed and updated to reflect emerging knowledge and research; this includes core training courses such as Child Protection and Attachment and Trauma. There is also a greater awareness of the risk to children presented by social media and there is a rolling training programme for foster carers, which is informed by training materials provided by Child Exploitation and Online Protection Agency (CEOP). The Fostering Service in conjunction with the authority's Education Service continues to develop foster carer training in respect of the Nurture Principles.

The North Ayrshire Council has also regularly commissioned refresher training for staff within the Fostering Service in relation to Child Protection within foster care. Foster carers also undergo regular updated refresher training in relation to child protection.

Within recruitment, there is a greater emphasis on the use of social media as a medium to attract prospective foster carers. The Service also has a Recruitment Group in place with responsibility for driving forward recruitment within foster care.

There has been a move towards the use of electronic files and a paperless system to record and retain information relating to foster carers. A platform for information sharing for children is available for all relevant professionals in North Ayrshire in the form of AyrShare.

The North Ayrshire Fostering Service now has a Whistleblowing procedure in place which is incorporated within the updated Fostering Procedures (2018) and the Fostering Handbook.

### 4.3 **Children**

#### (i) **Policy**

##### **Past (1996 – 2014)**

#### a) **What policies and/or procedures did the local authority have in place in relation to the care of children in foster care?**

The North Ayrshire Council Fostering Service continued to use the Fostering Guidelines as developed by Strathclyde Regional Council, which was adapted for use by The North Ayrshire Council in 1997. The North Ayrshire Council Fostering Procedures were introduced in 2007, and subsequently these were incorporated into the Foster Carer Handbook, Foster Carer Service Agreement and Foster Carer's Induction Pack. The Fostering Procedures were used in conjunction with the Child Protection Procedures in place over the relevant timeframe. Similarly, Looked After Procedures were updated within the relevant time frame and were pertinent to children in foster care.

#### b) **Was there a particular policy and/or procedural aim/intention?**

As per Section 4.2 (i)(b), all procedures were ultimately aimed at the promotion of positive outcomes for children, whilst ensuring they were safe and protected from harm. The North Ayrshire Council was committed to ensuring children's voices were heard within such processes. The North Ayrshire Council promoted ongoing contact between a child and their siblings and birth family/extended family. The aim for all children in foster care was to assess and rehabilitate children to their birth families or extended family where possible. Should this not be possible, it was the aim of The North Ayrshire Council to progress a child's care plan to secure substitute care through permanence or adoption.

#### c) **Where were such policies and/or procedures recorded?**

Procedures in relation to the care of children in foster care were held in paper copies within the Service and electronically within the local authority's intranet/electronic recording systems. Relevant staff had access to such documentation as required at the time, and these were provided to foster carers on approval. Additionally, any specific issue guidance and relevant updates to procedures were provided to foster carers as required from time to time.

#### d) **What did the policies and/or procedures set out in terms of the following:**

##### **i. Safeguarding**

Safeguarding is a term used to denote measures to protect the health, well-being and rights of individuals which allow children and young people to live free from abuse and maltreatment. Within The North Ayrshire Council, the



concept of safeguarding was enshrined in, and underpinned, all policies and procedures in respect of Looked After Children. All staff and foster carers had a responsibility for safeguarding and ensuring that the welfare of children was paramount.

## ii. **Child protection**

The aim of the Child Protection Procedures was to assist staff in effectively protecting children from abuse and neglect. These procedures were intended to help staff identify indicators, which may have suggested a child was being abused or at risk of abuse, advise what steps should be taken if there were concerns about a child, and outline what should happen when concerns were reported. The procedures were primarily aimed at ensuring effective interagency communication, collaborative working and a consistent framework for practice. It was recognised that professional judgement, based on thorough assessment and critical analysis, was also required to ensure the procedures were applied appropriately to individual situations and in accordance with the needs of the child. It was further recognised that at any stage of a child protection inquiry or investigation, it may become apparent that child protection procedures were not appropriate. In these instances, the Team Manager would decide what supportive or protective response would best meet the needs of the child. The welfare of the child was always the paramount consideration in decision making.

Information pertaining to child protection relevant to the care of children in foster care in The North Ayrshire Council over the relevant time frame is contained in the procedures below. These procedures can be provided as supplementary information as required.

- Strathclyde Regional Council Child Abuse Procedures (1989) (adapted for The North Ayrshire Council in 1997)
- The North Ayrshire Council Fostering Procedures (2007)
- The North Ayrshire Council Child Protection Procedures (2011 & 2014).

## iii. **Medical care**

Within the Looked After Procedures, it was stipulated that an admission medical was required to take place and a health record maintained for the period the child was accommodated.

Responsibilities for foster carers to meet the medical needs of children were also laid out within the Foster Carer Service Agreement. Said Service Agreements were reviewed and updated throughout this timeframe, however the requirements in relation to medical needs remained consistent. In particular, it was the responsibility of the foster carer to arrange for routine and emergency medical, dental and optical care and to

promote a healthy lifestyle. Further responsibilities in relation to medical care were stipulated as follows:

*The foster carer(s) must inform the social worker for the child/young person or other appropriate social services officer or, if after regular office hours, the Ayrshire Urgent Care Service immediately:*

- *in cases of emergency*
- *where the child/young person is missing, is seriously ill or where any other serious occurrence affects them*
- *where the Police are involved*
- *should any situation arise which threatens the child/young person's well-being*
- *upon the death of any child/young person in their care.*

(Source: Foster Carer Service Agreement (2011))

#### **iv. Children's physical wellbeing**

Within the Looked After Procedures, children's physical wellbeing was encapsulated within the seven developmental dimensions (health, education, identity, family and social relationships, social presentation, emotional and behavioural development and self-care skills) which ensured a comprehensive picture of the needs of children within foster care. Over the relevant time frame, 'Getting it Right For Every Child' (GIRFEC) (2006) policy was introduced to complement existing practice and the SHANARRI wellbeing indicators (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included) and principles were incorporated into the assessment of children's needs and care planning.

The responsibility for promoting children's physical wellbeing was also laid out within the Foster Carer Service Agreements in place throughout this timeframe. Specifically, that foster carers were required:

- *To care for the child as if he/she were a member of their own family in a safe and caring manner*
- *To provide the child with food, clothing and warmth, a bed and a separate room*
- *To promote the child's welfare, in accordance with the child's Looked After Care Plan. To attend professional meetings such as Looked After Reviews and Children's Hearings as needed*
- *To be aware of the child's emotional, social, educational, religious and physical needs.*

(Source: Foster Carer Service Agreement (2011))



#### v. Children's emotional and mental wellbeing

Within the relevant Looked After Procedures, children's emotional and mental wellbeing was encapsulated within the seven developmental dimensions (health, education, identity, family and social relationships, social presentation, emotional and behavioural development and self-care skills) which ensured a comprehensive picture of the needs of children within foster care. As above, over the relevant time frame, GIRFEC policy was introduced to complement existing practice and the SHANARRI wellbeing indicators (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included) and principles were incorporated into the assessment of children's needs and care planning.

The responsibility for promoting children's emotional and mental wellbeing was also laid out within the Foster Carer Service Agreements in place throughout this timeframe. Specifically, that foster carers required:

- *To be aware of the child's emotional, social, educational, religious and physical needs*
  - *To encourage the child's self-esteem and positive self-image.*
- (Source: Foster Carer Service Agreement (2011))

#### vi. Schooling/education

Within the Looked After Procedures, children's schooling/education was encapsulated within the seven developmental dimensions (health, education, identity, family and social relationships, social presentation, emotional and behavioural development and self-care skills) which ensured a comprehensive picture of the needs of children within foster care. Over this time frame, Getting It Right For Every Child (GIRFEC) policy was introduced to complement existing practice and the SHANARRI wellbeing indicators (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included) and principles were incorporated into the assessment of children's needs and care planning.

The responsibility for promoting children's schooling/education was also laid out within the Foster Carer Service Agreements in place throughout this timeframe. Specifically, that the foster carer was required:

- *To provide educational support to the child and encourage the development of special talents and interests*
  - *To co-operate with any arrangements made by the local authority*
- (Source: Foster Carer Service Agreement (2011))

### **vii. Discipline**

The North Ayrshire Council Fostering Procedures stipulated that all prospective foster carers' views in relation to discipline should be fully explored during the assessment process (i.e. prior to approval).

Additionally, following approval, foster carers required to sign a Foster Carer Service Agreement which clearly stipulated the contractual requirements of the fostering task and the expectations of the Fostering Service. Said Service Agreements were reviewed and updated throughout this timeframe, however the requirements in relation to discipline remained consistent. This was as follows:

- *To ensure that, under no circumstances, will physical chastisement be used against the child*
- *To ensure that any disciplinary measures will avoid humiliation of the child*

(Source: Foster Carer Service Agreement (2011))

### **viii. Activities and holidays for children**

Within the Looked After Procedures, activities and holidays for children were considered within the seven developmental dimensions (health, education, identity, family and social relationships, social presentation, emotional and behavioural development and self-care skills) which ensured a comprehensive picture of the needs of children within foster care. Over the relevant time frame GIRFEC (2006) policy was introduced to complement existing practice and the SHANARRI wellbeing indicators (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included) and principles were incorporated into the assessment of children's needs and care planning.

Foster carer responsibilities in relation to holidays for children were further reinforced within the Foster Carer Service Agreement:

- *The foster carer must notify the child/young person's Social Worker to seek advice, guidance and permission in relation to any intention for the child or young person to travel out with Scotland*
- *Registered foster carers should take a child in placement on, at least one, family holiday per year*

The North Ayrshire Council Fostering Procedures (2007) also stipulated that additional payments were to be made for holidays as detailed below:



- *Holiday allowance - a payment equivalent of 2 weeks' allowance is paid per child or young person to cover holiday expenses (This payment was made in the relevant month of each year)*
- *In addition to the standard holiday allowance, The North Ayrshire Council could also have contributed to the cost of children and young people's holidays.*

(Source: Foster Carer Service Agreement (2011))

Supplementary guidance on 'Outdoor Activities for Children and Young People in Foster Care' was issued to foster carers in 2011. This emphasised the importance of sport and leisure activities for Looked After Children in developing their confidence and self-esteem and the Service expectation that foster carers would promote this. Risk assessments, where appropriate, were also completed.

#### **ix. Sharing a bedroom**

From 1996 onwards, the Fostering Procedures stated that the child being placed would require their own bedroom, although siblings under the age of twelve would be assessed as appropriate to share a bedroom if no other risks had been identified. Practice in this area changed over the relevant time period and from 2007 onwards, it was stipulated within The North Ayrshire Council's procedures that children required a separate room.

This was set out within the Foster Carer Service Agreement:

- *To provide the child with food, clothing and warmth, a bed and a separate room*

(Source: Foster Carer Service Agreement (2011))

#### **x. Contact with family members**

Responsibility for promoting contact with family members was outlined within the Foster Carer Service Agreement:

- *To help the child understand and integrate his/her past history*
- *To encourage and promote contact between the child and his/her family, where this is in the interests of the child and is part of the Looked After Care Plan*
- *To work with the child's family, where this is in the Looked After Care Plan, and in consultation with the Family Placement Team*
- *To help prepare the child to return to his/her parents or be placed with alternative carers, where this is the Looked After Care Plan*

(Source: Foster Carer Service Agreement (2011))

The Looked After Procedures, as utilised by The North Ayrshire Council, specified that contact arrangements should be focused on, and shaped around, the child's needs. The child's welfare was always promoted as the paramount consideration and each child's wishes and needs for contact was individually considered and regularly assessed. The child's contact arrangements may also have been set through a legal order and therefore the foster carers were required to adhere to any and all elements of same.

**xi. Contact with siblings**

Within the Looked After Procedures, maintaining sibling contact was one of the main areas covered and there is evidence that this was reviewed at Looked After Review.

Alongside this, a child's legal order may also have stipulated sibling contact. Please see Section 4.2 (i)(d)(vii) generally for further information.

**xii. Celebrations of birthdays and special occasions**

The North Ayrshire Council Fostering Procedures (2007) stipulated that additional payments were to be made for birthdays and Christmas as detailed below:

Birthday allowance - a payment equivalent to 1 week's allowance was paid in the month of the child or young person's birthday.

Christmas allowance - a payment of 1 week's allowance per child or young person in placement was made in the Christmas pay period.

The unwritten policy in relation to additional payments for Christmas and birthdays was that this should be spent on the relevant children in placement.

**xiii. Information sharing by the foster carers with family members**

The Looked After Procedures in place within The North Ayrshire Council, stipulated that while children may have been removed from parental care, parents would often retain parental rights. As such, the local authority required to share information about the child's development in terms of their emotional, physical and academic progress. Information sharing between birth parents and foster carers could take many forms including attendance at formal meetings (such as Looked After Reviews), regular use of communication diaries or informal discussions before or after face-to-face



contact sessions where foster carers would usually be involved in transporting children to and from birth family contact sessions.

**e) Who compiled the policies and/or procedures?**

Operational policies and procedures were compiled by the Senior Management Team in place at the time and prepared collectively. These were subsequently agreed and ratified at The North Ayrshire Council Workforce Planning Group which was chaired by the Director of Social Work.

**f) When were the policies and/or procedures put in place?**

Policies and procedures were dated to identify when created and when amendments or updates were made.

**g) Were such policies and/or practices reviewed?**

From its inception in 1996, The North Ayrshire Council kept all policy and practice under review in line with national policy, guidance and legislation and updated this accordingly. This was reflected through associated changes in service delivery and updates to formal policy/procedures.

**h) If so, what was the reason for review?**

As above, the Fostering Procedures and associated practice were reviewed and updated to ensure they reflected national and legislative policy developments.

The Foster Carer Service Agreement was reviewed and updated to reflect the different Fostering Schemes introduced (Fostering First and Fostering Xtra) over the relevant time frame. These changes reflected the increased professionalism of the Service and the amended terms/conditions and expectations on foster carers.

The IMPACCT family-based respite scheme, as developed in 2002, had a discreet Foster Carer Service Agreement which reflected its specific role as a respite provision for children and young people with complex health care needs. This remained in use, in its original form, throughout this time frame.

The Looked After Procedures were taken from Strathclyde Regional Council and adapted by The North Ayrshire Council in 1997. During the relevant time frame, these were reviewed and updated in accordance with policy and legislative changes nationally, as well as national guidance and research relevant to Looked After Children.

**i) What substantive changes, if any, were made to the policies and/or procedures over time**

Substantive changes to policies and procedures occurred principally as a direct consequence of changes to national policy, procedures or updates to existing guidance and were dictated at a national level by the Scottish Executive/Government. These were required to be enacted by the Service as a result of its status as a 'regulated' service. Said changes have already been outlined within the body of this report.

**j) Why were changes made?**

Developments in childcare practice, increased awareness nationally and locally of the impact of abuse and trauma on children's development, learning from national Significant/Serious Case Reviews, changes in legislation and national policy and procedures all influenced local procedures and practice. Changes were also made following the introduction of the Fostering First and Fostering Xtra schemes within the Fostering Service.

**k) Were changes documented?**

Changes were reflected within the Child Protection Procedures, Looked After Procedures, Fostering Procedures, Foster Carer Service Agreement and specific issue guidance, which was provided to foster carers as required. A primitive form of version control was employed by the Service.

**l) Was there an audit trail?**

The Fostering Procedures, and associated practice, were reviewed and updated to ensure they reflected national and legislative policy developments. Throughout the time frame, policies were initially in hard copy and were superseded with new policies. Latterly, policies were in electronic version and out of date versions discarded when there was changes to the intranet and database. Older policies and procedures were not kept as general practice and there was no retention period relating to policies and procedures.

**Present (Dec 2014 – August 2019)**

**m) With reference to the present position, are the answers to any of the above questions different?**

Yes.



**n) If so, please give details**

The North Ayrshire Council Fostering Service initiated a review of the Fostering Procedures in 2018. The Fostering Handbook has also been updated to reflect these revised procedures.

In relation to discipline, the updated guidance outlines the following:

*Previous experiences of abuse or neglect can impact on levels of trust a child has in adults caring for them. This may lead to a sense of distance and can at times lead to frustration and confusion between the child and those who look after them. In these circumstances, feelings such as anger, fear and shame are more likely to be acted out in difficult behaviour and foster carers (and others) may find these manifestations of distress difficult to deal with. It is essential for all involved in the care of children and young people who are looked after away from home to remember that these children and young people have experienced a range of loss and trauma, including losses to their emotional and psychological development. Children and young people are not always able to respond in the way we would want them to. Carers need to be aware that all behaviour is communication and ensure that the child is not shamed in relation to their behaviour.*

*Positives must be openly acknowledged and appreciated. Identifying patterns when more problematic behaviour emerges should help foster carers and children recognise triggers which can then be discussed, and strategies adopted to manage these. On occasions when consequences for behaviour are required these must be:*

- *Relevant to the unacceptable behaviour*
- *Applied immediately and not retrospectively*
- *Time limited*
- *Always justifiable*
- *Used sparingly*

*The following are unacceptable consequences:*

- *Physical Chastisement*
- *Food deprivation*
- *Restrictions on contact for the child in relation to birth family, child's Social Worker, Independent Advocate.*
- *Imposing fines that are not reparation*
- *Excessive use of sending the child to bed early as bedtime should be a positive experience for the child and their bedroom a safe space*

*The Fostering Service does not advocate withdrawing a child/young person from attending pro social activities e.g. Scouts etc*

*If a situation arises which carers feel they did not manage well/could have managed better, carers are encouraged to discuss this with their supervising worker. The Fostering Service is aware of the challenges that can be present for*

*carers, and supervising workers can offer support where appropriate in relation to this.*

*(Source: The North Ayrshire Council Fostering Handbook, 2018)*

In relation to sharing a bedroom, the updated guidance outlines the following:

*Only children who are siblings below 5 years should usually share a bedroom. Unrelated children must have their own bedroom. Where a room is being shared by siblings, consideration must be given to the age, history and gender of the children, their need for privacy, sufficient space for each child's personal belongings and lockable storage if required, issues of vulnerability or behaviours which may be a risk to each child or carers. The Supervising Social Worker should be consulted prior to any room sharing arrangements being put in place and this will be subject to regular review with the carer to ensure that each child's needs continue to be met.*

*(Source: The North Ayrshire Council Fostering Handbook, 2018)*

One of the newer training initiatives of The North Ayrshire Council Fostering Service is the roll out of the Nurture Approach as the underpinning principle of the Service. It is the aim of the Service that a multi-disciplinary and common ethos will be adopted across the local authority which will ultimately support children to thrive in all aspects of their lives. This theoretical and practice framework will complement existing practice and training. It will be augmented by training for staff and foster carers and will result in closer collaborative and joint working, particularly with Educational Services.

## **(ii) Practice**

### **Past (1996 – 2014)**

#### **a) Did the local authority adhere in practice to its policy/procedures relating to the care of children in foster care?**

There is evidence from file reading that The North Ayrshire Council Fostering Service adhered to national and local policy and procedures. In addition, the Fostering Service was regularly assessed against national and local policy and procedures when inspected by the statutory regulatory body in place at the time.

Over the relevant time period, where foster carer practice deviated from procedures relating to the care of children in foster care, there is evidence that the Fostering Service adhered to the procedures in place to appropriately address this.



**b) Did the local authority adhere in practice to its policy/procedures in relation to the following?**

**i. Safeguarding**

There is evidence that the concept of safeguarding underpinned practice in The North Ayrshire Council Fostering Service. Furthermore, it is noted that The North Ayrshire Council considered safeguarding issues at Looked After Reviews. Children were often secured in Looked After Placements via legal orders however where adequate safeguarding measures were not in place or voluntary agreement was rescinded by a birth parent, a Child Protection Order (CPO) was sought if necessary. Referrals were also made to the Scottish Children's Reporter's Administration (SCRA) when required to secure children in foster care.

Within the Fostering Service, foster carers were supported to develop and adhere to a safer caring policy which promoted safeguarding for children in placement. This policy was reviewed and updated as required, relative to advice on changes in household composition and risks/needs of children placed. The concept of safeguarding also underpinned risk assessments and risk management plans for children within foster care. Safer caring and child protection were core training requirements for all approved foster carers within their first year of approval and refresher training was required three yearly. Adherence to this was measured during Foster Carer Reviews. These were chaired by a Manager independent of the Fostering Service and provided external scrutiny and monitoring of both the foster carer and the Fostering Service's compliance in this regard.

Evidence of adherence to safeguarding in practice can be found in the following extract from the Care Inspectorate Report (2012).

*"The service had robust systems in place to ensure that foster carers were recruited safely and could meet the needs of vulnerable children. The suitability of foster carers was reviewed annually. Each carer had health and safety checks carried out in their home and had a family safe care policy."*

(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).

From files read, there was some evidence of cultural changes by the local authority relative to the expectations of foster carers over this time period in relation to the standards around care, control and protection for Looked After Children.

Following the inquiry into the death of an adopted child (Brighton & Hove, 2001) it became mandatory to include references from ex-partners when assessing prospective foster carers or adopters. This practice was appropriately implemented within The North Ayrshire Council Fostering Service.

## ii. Child Protection

Based on file review, there is evidence that The North Ayrshire Council Fostering Service adhered to the policies and procedures in relation to child protection.

For further evidence of the way in which The North Ayrshire Council adhered in practice to procedures relating to child protection please see Section 4.1 (iv) and Section 4.2 (ii)(xvi).

## iii. Medical care

Based on file review, there is evidence that The North Ayrshire Council Fostering Service adhered to the policies and procedures in relation to the provision of medical care and support for Looked After Children. In particular, there is evidence that all aspects of children's health and wellbeing (including optical, dental, physical, emotional and mental health needs) were considered as key elements within Looked After Reviews.

The following extract from the Care Commission Report (2012) evidences adherence to policy and procedures in respect of children's medical care.

*"Foster carers had good links with health visitors and school nurses. Children benefitted from these working partnerships as was evidenced by health needs being attended to promptly and referrals being made to specialist services without delay. Carers had been issued with a "A to Z" Health Resource pack published by NHS Scotland. Carers found this a useful document to use in addition to advice from health professionals."*

(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).

For further evidence of the way in which The North Ayrshire Council adhered in practice to procedures relating to medical care for children in foster care please see Section 4.1(e)(i) and Section 4.2 (ii)(b)(i).

## iv. Children's physical wellbeing

Based on file review, there is evidence that Looked After Children's physical wellbeing was supported and encouraged within foster care. This was an essential developmental consideration within the Looked After Procedures and reviewed at all Looked After Reviews.

The following extract from the Care Commission Report (2012) evidences adherence to policy and procedures in respect of children's physical wellbeing.



*“The IMPACCT service held very detailed care plans for the children using the service. This included daily routines, preferences and interests, health needs and how to manage risk behaviour. This resulted in extremely child centred care being provided which minimised disruption during respite to children with extremely complex needs.”*

*“The Inspectors found that foster carers routinely promoted an active lifestyle. The Inspectors met children who took part in drama clubs, played musical instruments, cycled, swam and went horse riding. There was evidence of good outcomes for children in the development of social skills, levels of fitness and self-esteem. Two young people stated that their hobby would be a life long interest and may influence a career choice. There was also evidence that the use of exercise and play had improved the wellbeing of children with physical impairment and developmental delay.”*

(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).

For further evidence of the way in which The North Ayrshire Council adhered in practice to procedures relating to the physical wellbeing of children in foster care please see Section 4.2 (ii)(b)(i).

#### **v. Children’s emotional and mental wellbeing**

Based on file review, there is evidence that policies and procedures surrounding children’s emotional and mental wellbeing were adhered to in practice. There is evidence that children’s emotional and mental wellbeing was considered and assessed within the Looked After Review process. There was an increased recognition over time of the impact of early life trauma and exposure to abuse on Looked After Children. This was informed by national and global research and resulted in ongoing training for staff and foster carers.

The Fostering Service had in post a Child Systemic Psychotherapist, who carried out direct work with Looked After Children and foster carers in relation to children’s emotional and mental wellbeing. The Fostering Service also facilitated an activity group for young people with specific needs. This provided opportunities and experiences in accordance with the Duke of Edinburgh Award and was effective in raising confidence and self-esteem and improving social/life skills as evidenced in children’s case records. The success of the group in meeting the children’s needs was recognised by the local authority and the group were finalists in The North Ayrshire Council Care Accolades Awards. Alongside the success of the group for the young people involved, it also alleviated pressures within the foster placement and, in practice, often supported the placements of the children/young people involved more widely.

This is evidenced in the following extract from the Care Commission report completed in 2013:

*“Some young people continued to be involved in the, 'North Ayrshire, Duke of Edinburgh- Becoming the Author of Your Own Life' and had achieved bronze and silver awards.”*

(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).

Children were supported by The North Ayrshire Council to have a coherent narrative of their life story. Foster carers were also trained, supported and given strategies/materials by the Fostering Service to carry this out with children in their care.

For further evidence of the way in which The North Ayrshire Council adhered in practice to procedures relating to the emotional and mental wellbeing of children in foster care please see Section 4.2 (ii)(b)(i).

#### **vi. Schooling/education**

Schooling and educational attainment were one of the key developmental dimensions of the Looked After Procedures. As such, a child's progress in this area was reviewed at every Looked After Review. On a day to day basis, there is evidence from file review that foster carers adhered to the procedures and expectations of The North Ayrshire Fostering Service to promote children's wellbeing in this area. From files read, there is evidence of collaborative work with educational establishments, including foster carers attending educational reviews and transition meetings and linking with schools on a day to day basis to support a child's progress.

The following extract from the Care Commission Report (2012) evidences adherence to policy and procedures in respect of children's schooling and education.

*“There was evidence of the children in foster care being assisted to achieve their academic potential. For some young children the service linked with the Pre-school community assessment teams (PreSCAT), a multi-agency group set up to ensure children's early support needs were met in a coordinated way. Carers had good links with schools and education services for children. Children were supported in a variety of ways such as delayed entry to school to allow for developmental 'catch up' and shared school and vocational placements for older children.*

*The service continued to pay foster care allowance for those children who stayed on beyond school leaving age in school, college and university. The inspectors met one young person who was benefitting from staying on at school. Another young person was being supported financially and still in foster care whilst at university.”*

(Source: Care Inspectorate Report dated 23<sup>rd</sup> November 2012, completed by Anne Borland and Joy Hill, Inspectors).



**vii. Discipline**

Consideration of a foster carer's approach to discipline was always explored fully during the assessment process. There is evidence that most carers deployed appropriate strategies in relation to managing children's behaviours. This was reinforced through training, ongoing guidance and supervision by supervising social workers.

Where foster carer's practice in relation to disciplining children/managing children's behaviour was not in accordance with the requirements of the Fostering Procedures and the Foster Carer Service Agreement, this was addressed by the Fostering Service. Depending on the nature and severity of the practice concerns, this resulted in additional training for the foster carer and/or involvement of more formal processes, such as Child Protection, Foster Carer Review and/or Fostering Panel where consideration was given to amendment or termination of the foster carers approval.

**viii. Activities and holidays for children**

There is evidence from file review that activities and holidays were fully encouraged and supported for children in foster care. There is evidence that appropriate risk assessments were carried out and that the appropriate documentation was completed and authorised by the appropriate senior officer within the Children and Families Service. At Post Admission Meetings, which procedurally occurred within three working days of a child's foster placement being made, discussion occurred between those present (including parents/carers) in relation to the child's day-to-day routines and the ongoing support of organised activities. Furthermore, if the child was not attending any activities, the foster carers were encouraged to identify appropriate activities within their own community in relation to the child's interests.

All foster carers were also made aware, through the course of the fostering assessment, of the Service expectation that children placed in their care would have at least one holiday a year with the carers. This was also contractually required through the Foster Carer Service Agreement. This promoted the child's sense of acceptance and membership within the family and offered leisure opportunities that some children would have not had the opportunity to previously experience.

**ix. Sharing a bedroom**

From the inception of The North Ayrshire Council in 1996, practice in this area was seen to evolve and non-related children were placed in separate bedrooms. The North Ayrshire Council took guidance from the Housing Policy, in place at that time, in relation to siblings sharing rooms and if appropriate this occurred for children up to the age of twelve years.

From 2007 onwards, the Fostering Service had clear policies in relation to the need to provide Looked After Children with their own bedroom. On some occasions, siblings did share a bedroom where this was assessed as being in their best interests although, on the whole, it was standard practice that children's dignity and privacy was respected by having their own bedroom within fostering households. Fostered children and birth children of foster carers did not routinely share bedrooms.

**x. Contact with family members**

As referenced within earlier sections of this report, where it was assessed as being in the child's best interest, contact with birth family members was promoted following children being accommodated, the level of which was often dictated by legal orders.

**xi. Contact with siblings**

There is evidence that foster carers historically had a very important role to play in the safe facilitation of contact between Looked After Children and their siblings. Sibling contact was an essential component of Looked After Reviews and promoted where it was safe and appropriate to do so. Foster carers were central to facilitating and supporting sibling contact, and the importance of this was emphasised within monthly supervision between the foster carers and their supervising social worker.

**xii. Celebrations of birthdays and other special occasions**

All foster carers were fully aware of the importance of celebrating birthdays and special occasions for the children placed in their care, and it was commonly accepted that children benefitted from same. This was standard practice within the Service.

Historically the Fostering Service provided additional finances to foster carers in advance of children's birthdays, Christmas and holidays. By doing so, there was an implicit expectation that this would be used to celebrate these occasions for the said child.

Foster carers were also aware that they could not request short break entitlement if this clashed with the child's birthday unless this had already been previously arranged, prior to the commencement of the foster placement. Even in such circumstances, foster carers were requested to explore the possibility of taking the Looked After Child on the pre-arranged holiday.

In addition, it was also common practice that foster carers promoted the celebration of other special occasions for children, including



educational/social achievements and appropriate religious events. There is evidence from file review that foster carers also supported children (as appropriate) to purchase gifts for a birth parents' birthday to mark the occasion.

### **xiii. Information sharing by the foster carer with family members**

It was common practice within The North Ayrshire Council that information was shared with parents by foster carers (as appropriate) at Looked After Reviews. It was also common practice within the Fostering Service that foster carers had a communication diary in place, which advised parents of the child's day to day progress in foster care. Further practice developments in information sharing were seen from mid-2000s when foster carers provided regular reports on the child's well-being and progress to the child's allocated social worker who subsequently facilitated the sharing of said information, as appropriate, with the child's birth family.

#### **c) How was adherence demonstrated?**

Adherence could be demonstrated using specific practice examples as noted within Care Commission and Care Inspectorate Reports. These reports were based, among other things, on file review and third party discussions by the relevant inspector. This has been referenced as source material in Sections 4.1 and 4.2. Whilst these reports do inevitably make certain recommendations for service improvements, it can be evidenced that the Fostering Service consistently received positive feedback in relation to best practice in terms of Looked After Children.

#### **d) How can such adherence be demonstrated to the Inquiry?**

Available information was gathered and analysed to inform this response to the Inquiry. Collectively, they demonstrate adherence. Sources include:

- Looked After Review reports/minutes
- Health assessments
- RIC/BAAF Health Record
- Foster carer training records demonstrating awareness of trauma and attachment on children's overall development
- Records and reports of direct therapeutic interventions with Looked After Children
- Referrals and reports from Child & Adolescent Mental Health Service (CAMHS)
- Educational reports and support plans for Looked After Children
- Reports for Looked After Reviews, Children's Hearings and Foster Carer Reviews which represent children's views about their foster placement, including Independent Advocacy reports

- Risk assessments, consent forms and authorisation documentation for Looked After Children to go on holidays
- Contact plans
- Written communication between foster carers and parents/family members
- Foster carer and Child Case records, including unannounced visits to the foster placement and observations of children's sleeping arrangements
- Foster Carer Feedback Sheets
- Foster Carer Supervision Records
- Foster Carer Review paperwork
- Fostering Panel Minutes
- Care Commission Reports and Care Inspectorate Reports
- Life story work with Looked After Children
- Child protection reports

**e) Were relevant records kept demonstrating adherence?**

There is evidence that The North Ayrshire Council retained relevant records pertaining to foster carers and Looked After Children. It is acknowledged that file review undertaken for the purposes of informing the Inquiry submission has revealed some partial records and gaps in information relating to children in foster care. It is recognised that practice in relation to case recording has evolved over time and therefore the importance of full and detailed recording may not have been given the same emphasis historically as compared to current expectations and requirements of the Service.

**f) Have such records been retained?**

The North Ayrshire Council has retained all foster carer records since inception in 1996. Prior to this date, foster carer records were held by Strathclyde Regional Council. These are now located within the Mitchell Library, Glasgow, with only a small number held within North Ayrshire Archives. Prior to Strathclyde Regional Council coming into operation in 1975, records for the predecessor authorities were retained by Ayrshire Archive, located in Ayr.

It is acknowledged that file review undertaken for the purposes of informing the Inquiry submission has revealed some partial records and gaps in information relating to children in foster care. It is recognised that practice in relation to case recording has evolved over time and therefore the importance of full and detailed recording may not have been given the same emphasis historically as compared to current expectations and requirements of the Service.

Under the Fostering of Children (Scotland) Regulations 1996, the record for a foster carer or other person, compiled under Regulation 18, was retained for at least 10 years from the date on which approval was terminated, or until death if earlier. This was amended by The Looked After Children (Scotland) Regulations 2009 whereby foster carer records required to be retained for 25 years. As previously outlined, the retention period was triggered either from the death of



the foster carer or termination of the foster carer's approval and records are destroyed after this period. The North Ayrshire Council has a robust records management policy in place.

Where a mix of foster carer information and child information was held within the same record then a 100-year retention period was applied.

**g) If policy/procedure was not adhered to in practice, why not?**

There is evidence that the Fostering Service adhered to its policy and procedures in practice in relation to the above matters.

There were occasions when foster carers practice fell below acceptable standards, as laid out in their contractual obligations and the policies and procedures that governed the Fostering Service. Where appropriate, practice concerns were managed by targeted training, action plans and supervision with the aim of upskilling foster carers understanding and knowledge base in relation to managing behaviour and the impact of trauma and attachment on Looked After Children. At times, the Fostering Service also offered additional supports such as increased short break/respite provision where this was seen to be appropriate for both the child and foster carer to address the difficulties. Regular or additional Foster Carer Reviews could also culminate in these actions.

However, where unacceptable practice was assessed as being more entrenched or concerning, the Fostering Service activated procedures that led to further investigation and intervention. On occasion, this resulted in foster carers approval being reconsidered at a Fostering Panel which could ultimately lead to de-registration.

**h) If policy/procedure was not adhered to in practice, what was the practice?**

As noted previously, practice concerns or inappropriate practice took many forms but could include the following:

- Use of physical chastisement when disciplining children
- Employing care strategies that have elements of shaming/humiliation/scapegoating
- Failure to work to identified and agreed care plans
- Failure by the foster carer to disclose information that could impact on their ability to provide appropriate care to Looked After Children (e.g. changes to household composition, criminal charges brought against the foster carer or a member of the fostering household or primary foster carer taking on other paid employment)
- Failure to appropriately information share
- Failure to seek appropriate medical care for a child
- Foster carers making unilateral decisions regarding care planning for Looked After Children out with formal reviews or legal orders

- Failure to appropriately record or report pertinent information in relation to children
- Inappropriately restricting or influencing contact and/or the child's relationships with birth family members
- Breach of confidentiality and inappropriate sharing of children's information on social media platforms

**Present (December 2014 – August 2019)**

- i) With reference to the present position, are the answers to the above questions any different?**

Yes.

- j) If so, please give details**

Developments in research, professional practice and amendments to legislative frameworks and related policy and guidance continues to result in practice changes within The North Ayrshire Council Fostering Service.

In relation to safeguarding and child protection, the following extracts from Care Inspectorate Reports conducted during the relevant timeframe, evidences the Fostering Service's adherence to procedures in practice:

*"Safer caring training formed a central part of all programs and was regularly reviewed within foster carer's supervision sessions and annual reviews. Review forums were timeous and structured well to ensure the quality of the service being provided. Safer caring was further considered within looked after children's processes and we found that the service was quick to challenge standards of care that were not felt to be of good enough quality for children and young people to thrive."*

*(Source: Care Inspectorate Report dated 3<sup>rd</sup> February 2017, no inspector identified).*

*"We looked at child protection procedures and practice and were satisfied that there were procedures and practice in place to ensure service users are protected."*

*(Source: Care Inspectorate Report dated 4<sup>th</sup> June 2019, completed by Fiona Sheils, Inspector).*

In relation to children's emotional wellbeing, the Fostering Service until recently employed a Children's Worker who carried out play therapy and therapeutic interventions for Looked After Children. The following extract provides evidence of the way in which the Fostering Service adhered to procedures in respect of children's physical, emotional and social wellbeing

*"Children and young people were very well linked into health services and foster carers reported that health services were very accessible. The looked after and*



*accommodated nurse and health visiting service worked closely with the team and staff reported that this was incredibly beneficial for health advice and support. The files indicated that a strong multi-agency approach helped to ensure that foster carers were accessing all suitable healthcare provision for children, and also confirmed that children had attended important medical appointments. Where required, the service was able to directly enhance any need for mental health support with the provision of support from the young person's worker. Where required, the service would commission the supports of an independent psychotherapist."*

*(Source: Care Inspectorate Report dated 3<sup>rd</sup> February 2017, no inspector identified).*

The Fostering Service has embarked on rolling out the Nurture Principles as an approach to caring for children and managing behaviour therapeutically, conducive to supporting children's emotional and mental well-being. This is a joint venture between the Fostering Service and Educational Services, with the aim of integrating a consistent, unilateral approach to care giving across the authority. This approach provides carers with an increased understanding of the reasons underlying children's behaviour and offers therapeutic strategies to manage behavioural difficulties.

The Fostering Service now has a Children's Group (The Ghillie Dhu Group) which specifically aims to focus and bolster the emotional wellbeing of Looked After Children. The ethos of this group is based on supporting children to overcome the impact of their early adverse life experiences, which involved trauma and abuse. The key objectives of the group are to support children's self-regulation, empathy development, consequential thinking and encourage social inclusion. There is recognition that foster carers play an integral part in supporting children's emotional well-being and are central to reinforcing with children an ethos of positive and self-regulatory behaviour. The group staff therefore work in partnership with foster carers to reinforce the key objectives.

The Fostering Service has in place a monthly multi-agency collaborative forum involving representatives from Psychological Services, CAMHS, Fostering Service and Children & Families Fieldwork. This forum considers a child's holistic needs and provides consultation and strategies to best meet these.

Within Education, there are Team Around The Child Meetings that take place regularly for Looked After Children; these are attended by foster carers.

The following information has been extracted from Care Inspectorate Report (2015) and further evidences The North Ayrshire Council's continued adherence to policy and procedure:

*"Foster carers completed safer carer policies which were specific to the children in placement".*

*"Complaints were robustly investigated and a detailed record kept of the scope of the investigation and findings. We found the service used this as an opportunity to reflect on practice and had amended and introduced policies and procedures accordingly".*

(Source: Care Inspectorate Report dated 13<sup>th</sup> March 2015, no inspector identified).

#### **4.4 Foster carers**

##### **(i) Policy**

##### **Past (1996 – 2014)**

##### **a) What policies and/or procedures did the local authority have in relation to foster carers?**

As previously noted, The North Ayrshire Council Fostering Service continued to use the Fostering Guidelines as developed by Strathclyde Regional Council and adapted for The North Ayrshire Council in 1997. The North Ayrshire Council Fostering Procedures were introduced in 2007, and subsequently these were incorporated into the Foster Carer Handbook, Foster Carer Service Agreement and Foster Carer's Induction Pack.

The IMPACCT family-based respite scheme, as introduced from 2002, had discreet Fostering Procedures and Foster Carer Service Agreements which reflected its specific role as a community respite provision for children and young people with complex health care needs. This scheme was also governed by the same overarching regulations and procedures as the other fostering schemes within The North Ayrshire Council.

In relation to Child Protection Procedures in respect of accommodated children, these aligned with the child protection procedures in place during this time frame. These procedures have been outlined elsewhere in this report. Similarly, Looked After Procedures were reviewed and updated within the relevant time frame. All processes and procedures in this respect were aligned in accordance with the principles and values of Getting It Right For Every Child (GIRFEC) policy guidance which were implemented accordingly into practice.

##### **b) Was there a policy/procedural aim/intention?**

The policy/procedural aim/intention was to promote the overall wellbeing of Looked After Children and to ensure optimum care standards for them, through the development of foster carers' knowledge and skills.

##### **c) Where were such policies/procedures recorded?**

Fostering Procedures were held as paper copies within the Service and electronically within the local authority's intranet/electronic recording systems. Relevant staff had access to such documentation and it was provided to foster carers on approval. Additionally, any specific issue guidance and relevant



updates to procedures were provided to foster carers and staff (as required) from time to time.

**d) What did the policies and/or procedures set out in terms of the following?**

**i. Recruitment**

The Fostering Procedures, in place over the relevant time frame, stated that The North Ayrshire Council would attempt to recruit foster carers from within the boundaries of the local authority itself. However, the procedures also noted that the main consideration should be the welfare of the child.

The Fostering Procedures outlined the various methods that could be used to promote the Service and recruit foster carers. This involved an initial interview of the prospective foster carer(s) by an assessing social worker, and the facilitation of group learning sessions prior to commencement of the assessment process. Prospective foster carers would complete an application form as the gateway to the assessment process. This was then followed by several home visits and meetings with both prospective foster carers, if a couple.

At this stage, the Fostering Procedures stipulated that formal enquiries should be carried out. This included checks of the local authority's own departmental records, police enquiry, an area health board check, health assessment of the prospective foster carers, completion of personal references (two in total although one of these was not to be a family member), out with region checks (this included social services, health and police checks for any region the applicant had lived outwith North Ayrshire), and checks on existing household members. The completed assessment report outlined strengths and areas of development for the prospective foster carer and was subsequently presented to The North Ayrshire Council's Fostering Panel for consideration of approval.

The above process remained largely until the coming into force of The Protection of Vulnerable Groups (Scotland) Act 2007 (PVG) and the Looked After Children (Scotland) Regulations 2009, where Schedule 3 set out the necessary checks required on applicants and any persons over 16 years of age who resided within the household (including birth family members of the applicants). This framework was subsequently updated, and the Enhanced Disclosure Check for foster carers was replaced by PVG checks from 28<sup>th</sup> February 2011. Enhanced Disclosure checks on other household members over 16 years of age continued to be required. In addition, formal reference requests to previous employers were also introduced during this timeframe

Following the inquiry into the death of an adopted child, (Brighton & Hove, 2001), it became mandatory to include references from ex-partners when assessing prospective foster carers or adopters. Guidance on Looked After Children (Scotland) Regulations, 2009 and The Adoption and Children

(Scotland) Act 2007 (published 2010) stated that “best practice required that contact was made with applicants’ former partners, especially where relationships involved care of children, and also talking to grown up children living elsewhere”. This was incorporated into practice within The North Ayrshire Council Fostering Service.

**ii. Standard and size of accommodation**

As per the Fostering Procedures, assessment of the home environment took place during the initial interview stage of the process, when an allocated social worker completed a home visit as a follow-up to the initial enquiry to foster. This was completed prior to the Fostering Service accepting a formal application. As standard procedure, the child being placed would require their own bedroom, although from around 1996 siblings under the age of twelve could be assessed as appropriate to share a bedroom, if no other risks had been identified.

In addition, the Fostering Service employed a health and safety checklist that considered safety aspects of every room within a potential fostering household. These checklists were to ensure that all households met appropriate standards in terms of safety.

**iii. Number, age and gender of children accommodated/in the household**

The number of children who could be accommodated (in terms of applicants’ approval status) was assessed on a case by case basis, with a range of factors considered in terms of the size of the applicants’ property, existing care commitments (i.e. birth children or care commitments to grandchildren of the applicants), approved foster carers understanding of the fostering role and/or previous experience of working with children. In line with the Looked After Children (Scotland) Regulations 2009, the Fostering Panel recommended a maximum number of children to be placed when approving carers.

Amendments to the Looked After Children (Scotland) Regulations 2009 (in December 2014), stipulated that a maximum of three children could be placed in any one household, on an ongoing basis, regardless of the size of property that applicants owned (with the exception of sibling groups or children placed for emergency or short break placements for under twenty eight days).

During the assessment process, careful consideration was given by the assessing social worker to the age range of children most suitably matched to the foster carers abilities and this formed a recommendation to the Fostering Panel. This recommendation was considered and at times amended prior to approval by the Head of Service Children & Families/ Agency Decision Maker.



From older files read, there was evidence that foster carers were, at times, approved for children of a specific gender. From more recent files read, there was no evidence that children were matched with carers based on gender.

**iv. Pre-approval/registration checks**

See Section 4.4 (i)(d)(i) above for information pertaining to pre-approval/registration checks.

**v. References**

See Section 4.4 (i)(d)(i) above for information pertaining to foster carer references.

**vi. Foster care agreements**

The Fostering Procedures allowed for the creation of Foster Carer Service Agreements. At the point of The North Ayrshire Council's inception in 1996, the Fostering Service continued to use the existing Foster Carer Service Agreements from Strathclyde Regional Council which were adapted for The North Ayrshire Council. This document outlined service expectations placed upon the foster carers including the following:

- Practical support including finance, allowances and travelling expenses
- Clothing, equipment, furniture and insurance
- Social Work Support; covering what foster carers could expect from the Service in terms of home visits, formal supervision sessions, support during and out with placements and via support groups
- Transfer of foster placements both within and out with the local authority

This agreement was regularly reviewed over the relevant time frame. It continued to be used, in an amended form, until a new Foster Carer Service Agreement was introduced in 2011, to correspond with the new Fostering Schemes. For examples of the Foster Carer Service Agreement please see SD 22).

In relation to the IMPACCT family-based respite care scheme, a specific Foster Carer Service Agreement was introduced in 2002, which reflected its role as a community respite provision for children & young people with complex health care needs. This remained in place in its original form throughout this timeframe.

## vii. Induction

From 1996 onwards, The North Ayrshire Council facilitated the National Foster Care Association's (pre-cursor to The Fostering Network which came into existence in 2001) 'Parenting Plus' course for newly approved foster carers. This course was designed to run over six two-hour sessions, with each session covering a different theme:

1. What is foster parenting?
2. The foster child in our home
3. Our child's natural parents
4. Working with the agency
5. You, the agency and the community
6. Placement

The above topics were explored through preparation groups and the assessment process with prospective foster carers; this included prospective IMPACCT carers. These were also used with foster carers following approval during this period.

Foster carers were also encouraged to attend the 'Added to Adolescence' course, which consisted of seven sessions based on the following:

1. The things kids do – adolescent behaviour
2. What's going on? – adolescent development
3. Talking with teenagers – listening and responding
4. Living with teenagers – ways of getting on
5. On their own – preparing for independence
6. Giving and getting – relationships
7. Getting it together – personal identity

In line with the increased sense of professionalism attached to the fostering role, the Fostering Service also utilised the British Association of Adoption and Fostering (BAAF) preparation materials, and assessment format (Form F) which was widely adopted nationally over this time frame.

In addition, since 2011, the Fostering Service required all newly approved foster carers to undertake 'core' training within the first two years of approval. This included training in Child Protection and 'Safer Caring' (required within the first year), First Aid in Foster Care, Child Development, Life Story Work, Managing Social Network and Attachment in Foster Care.

The Fostering Service also had a standardised formal induction pack in use. This provided all newly approved foster carers with a range of information relating to relevant policies and procedures.



**viii. Transfer of foster carers to or from other organisations including local authorities**

The North Ayrshire Council adopted the transfer protocols put in place by The Fostering Network, with initial guidance issued in 2004. These protocols were reviewed and revised by The Fostering Network over the relevant timeframe, to reflect changes in legislation, statutory guidance and national minimum standards that governed fostering services across the UK. The protocol recommended best practice guidance to be followed when a prospective or approved foster carer wished to transfer their application or registration from one registered fostering provider to another.

**ix. Review/supervision**

Between 1996 – 2007, The North Ayrshire Council continued to utilise the frameworks for review and supervision of foster carers, prepared by Strathclyde Regional Council and adapted for use by The North Ayrshire Council. As such, the Fostering Procedures outlined that the allocated supervising social worker arranged a home visit with the successfully approved foster carers within ten days of receiving official notification of their approval by letter from the Fostering Service. The allocated supervising social worker would then clearly explain their role in maintaining contact with the foster carer(s), ensure they had a copy of the Foster Carer Handbook, appropriate contact details for the Service and their allocated worker, pass on information relating to support groups, ensure the foster carer(s) had an up to date 'family album' (information and photos of the foster carer(s) home, for any Looked After Child to see prior to a placement being made) and ensure that foster carers had the required equipment should a placement be made. The supervising social worker would also ensure that the new carer had a current training calendar and was nominated to attend all required and relevant courses.

The supervising social worker was required to carry out formal supervision with the foster carer on a monthly basis. This involved planning for each subsequent visit to the foster carers/child, covering subject matter such as how the child had adapted to the foster home, the child's development, the child's relationship with their carers and ensure that home visits completed also included other household members being present. Reflective of the culture of that time, the Fostering Procedures (2007) appear to have been focused on females as the main carer and note that male carers should also be included in visits and meetings (the 2007 procedures continued to be in use throughout the relevant timeframe, however there were unwritten procedural developments which reflected the increased importance attached to the role of the male carer and in later years, male carers/single sex carers were assessed as the main carer in their own right). The Fostering Procedures also stated that a written report should be completed after each home visit was undertaken and that the social worker required to carefully consider any areas of possible tensions, as well as additional costs incurred by the foster carers relative to particular placements.

During the relevant time period, reviews of foster carers were held annually, and involved the foster carer(s) the supervising social worker (otherwise known as the link worker) and the Manager of the Fostering Service. The purpose of the annual review was to assess the use of the foster home, update practical information, including the health of the foster carer(s), changes in circumstances, evaluate the foster carer(s) development, assess the foster carer(s) training needs, assess the support offered by the Service to the foster carer(s), discuss the impact of fostering on all family members and to comment on the ability of the foster carers to cope with the demands of the fostering task.

These Foster Carer Review meetings were noted as being formal and would be chaired by a Senior Worker, with knowledge of the Fostering Service. The guidance also stated that both the link worker and foster carers were required to complete review reports for consideration at the meeting, and also have the opportunity to discuss each other's reports prior to the review itself. All those in attendance were expected to have copies of the completed reports prior to the facilitation of the review.

The Foster Carer Review itself would also be minuted, including any decisions made at the review, with a copy subsequently sent to the foster carers. In addition, while these reviews were noted to be required to be held annually, the guidance also stated that further reviews should be held if there were significant changes in circumstances for the foster carers, where a review was requested by the foster carers or when a complaint was received about the foster carers' care of an accommodated child.

While updated guidance was subsequently disseminated in 2007, there were no substantive changes to the above.

#### **x. Training**

Please see Section 4.4 (i)(d)(vii) in the first instance. In addition to the induction process, the Fostering Service historically had Foster Carer Service Agreements which stipulated training requirements for foster carers.

The Fostering Procedures (2007) clarified that foster carers should attend mandatory training (such as Child Protection, Safer Caring, Attachment Theory and First Aid in Foster Care), as well as training specific to the needs of an individual child. These Procedures also highlighted that foster carers should be given the opportunity to attend accredited training in line with their own professional development, and clearly stated multi-agency and/or multi-disciplinary training could be particularly beneficial.

The Fostering Procedures (2007) also highlighted and incorporated existing policy, guidance and legislation of this time, such as National Care Standards (amended 2005, particularly Standards 8 and 11), Fostering of Children (Scotland) Regulations 1996, guidance on fostering in Chapter 3 in 'Scotland's Children: The Children (Scotland) Act 1995, Regulations



and Guidance', Volume 2: Children Looked After by Local Authorities and the Regulation of Care (Scotland) Act 2001.

**xi. Personal development**

The North Ayrshire Council Fostering Service provided training and development opportunities as laid out in the Fostering Procedures, Foster Carer Service Agreement and the Foster Carer Handbook (as referenced throughout Part C of this report). The overall aim was to align professional development with personal development.

**xii. Disciplinary actions**

Foster carers are considered to be self-employed and as such were not subject to The North Ayrshire Council's internal disciplinary procedures in place from time to time. Procedures followed in response to any complaint as to their conduct was principally focused on safeguarding children.

The North Ayrshire Council Fostering Procedures (2007) stated that one of its primary functions was to ensure that all staff members and foster carers alike were clear on the policies and procedures that would be enacted in the event of a complaint or allegation being made against foster carers and further, to ensure that foster carers would be able to access independent advice in such circumstances. The Fostering Procedures also noted that dependent on the nature of the allegation, consideration would need to be given as to whether the child in placement could remain there during the investigation, or whether the child would require to be moved. The Fostering Procedures also noted that foster carers must be clear on the role of their supervising social worker in relation to any investigation and in practice, the supervising social worker would not be involved in the actual investigation, due to the potential conflict of interest given the nature of the working relationship.

Furthermore, it was stipulated that the nature of any complaint or allegation must be assessed immediately, to inform what would be the most appropriate form of action and whether it was assessed as safe (or otherwise) for the fostered child(ren) (and the birth children of the foster carer(s)) to remain in the placement during the course of the investigation.

If the complaint or allegation involved child protection matters, The North Ayrshire Council would enact its general Child Protection Procedures. As such, the supervising social worker (also known as the link worker) would ensure the foster carer(s) understood the processes and procedures and were aware that independent support was available. In practice, this involved directing the foster carers to The Fostering Network who offered independent support and legal advice. When the Child Protection Investigation was completed, the supervising social worker would complete a report and call a Foster Carer Review to discuss the outcome of the

investigation with the foster carers and other relevant parties. At this stage, the Service may have recommended a change or termination of the foster carer(s) registration, and a further review through the Fostering Panel would then be convened. If a recommendation was made to terminate the foster carer(s) registration, a Fostering Panel would be convened as soon as possible with procedures for reviews and terminations to be followed. In addition, no further children would be placed until the investigation was concluded. It was noted that foster carers would still have a right to appeal if they did not agree with the Review Fostering Panel's decision to terminate, with the final decision on continuing approval resting with the Agency Decision Maker. If the decision was upheld, the local authority then had a duty to contact the employers of foster carers to confirm the position.

Where complaints or allegations did not fall under the remit of child protection, the supervising social worker (or another suitably qualified worker where assessed as appropriate) would undertake the investigation within a time frame of twenty-eight days and have responsibility for ensuring the foster carer(s) understood the procedures being applied. Again, the investigating worker would then complete a report and share this with the foster carers (although they may have been required to redact third party information) and make recommendations as to how to address any practice concerns that may have arisen across the course of the investigation. If the report recommendations included any variation to the foster carer(s) existing approval status, a review Fostering Panel would be held as soon as possible. If the complaint or allegation was assessed as involving a serious incident or change of circumstances for the foster carer(s) the review should be conducted by the review Fostering Panel with procedures relating to reviews, terminations and appeals followed.

### **xiii. Removal of approval/registration**

In terms of the removal of approval or registration of foster carers, The North Ayrshire Council Fostering Panel had the primary role in considering and making recommendations for all foster carer assessments/reassessments. However, the final decision in relation to the removal of approval/registration was made by the Agency Decision Maker of the time.

In circumstances where foster carers requested a review of the Agency Decision Maker's final decision, The North Ayrshire Council Fostering Procedures allowed for a second Fostering Panel to be convened, with a new cohort of Panel Members. The recommendation of this Appeal Panel was provided to the Agency Decision Maker for reconsideration within appropriate timescales.

Further information on The North Ayrshire Council Fostering Procedures in relation to removal of approval/registration can be located within the Fostering Procedures (2007) Sections M, N and P (SD 18).



**e) Who compiled the policies and/or procedures?**

As before, Senior Managers within Children's Services were responsible for compiling operational procedures relating to the Fostering Service. These were then considered and ratified at The North Ayrshire Council Workforce Planning Group which was chaired by the Director of Social Work.

**f) When were the policies and/or procedures put in place?**

The dates are as noted previously in Part C.

**g) Were such policies and/or practices reviewed?**

As previously noted, from its inception in 1996, The North Ayrshire Council continued to use The Fostering Guidelines introduced by Strathclyde Regional Council and which was adapted for use by The North Ayrshire Council. The North Ayrshire Council undertook a major review of the Fostering Procedures in 2007. Supplementary specific guidance was issued to foster carers as required in line with national and local policy developments throughout this timeframe. Unwritten policy, which was adopted as custom and practice, was also in place and this, alongside any associated paperwork/processes, was periodically reviewed by the Service in accordance with national and local policy changes.

**h) If so, what was the reason for review?**

As above, review of the fostering procedures was to ensure that The North Ayrshire Council was compliant with national and legislative developments and they reflected the expectations and culture of the local authority and the Fostering Service.

The Foster Carer Service Agreement was also reviewed over the relevant time frame to ensure it reflected national and local policy developments and guidance. A major redesign was carried out in 2011, to reflect the different Fostering Schemes introduced (Fostering First and Fostering Xtra) within The North Ayrshire Council Fostering Service. These amended Foster Carer Service Agreements reflected the increased professionalism of the Fostering Service, amended terms/conditions and provided the updated contractual requirements for foster carers and the Fostering Service.

Contractual agreements were reviewed in conjunction with The North Ayrshire Council's Legal Services team. The North Ayrshire Council Workforce Planning Group which was chaired by the Director of Social Work provided governance for relevant procedures, service agreements and service developments attached to the Fostering Service.

**i) What substantive changes, if any, were made to the policies and/or procedures over time?**

Substantive changes to procedures occurred principally as a consequence of changes to national policy, procedures or update to existing guidance that was dictated at national level by the Scottish Executive/Government. These required to be enacted by the Fostering Service as a result of its status as a 'regulated' service. Such changes have already been outlined within the body of this report.

**j) Why were changes made?**

Please see Section 4.4 (h) for information. Changes made to policies and procedures across this timeframe were largely as a result of amendments to existing legislation, national policy and guidance, introduction of new legislation, national policy and guidance, Service developments (for example, introduction of The Fostering Network's Skills to Foster preparation materials for prospective foster carers) and/or BAAF guidance in relation to fostering assessments introduction of new fostering schemes within the North Ayrshire Fostering Service (Fostering First & Fostering Xtra).

**k) Were changes documented?**

Updates and changes to policies and procedures were documented together with the date when this occurred.

**l) Was there an audit trail?**

An audit trail can be identified as per Section 4.3 (i)(k).

**Present (2014 – Aug 2019)**

**m) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**n) If so, please give details**

There have been changes to The North Ayrshire Council Fostering Procedures as a result of legislative changes and internal changes within the Fostering Service. The Fostering Procedures and Foster Carer Handbook have been updated accordingly (2018).



In terms of recruitment, the Fostering Service also now seeks to recruit foster carers on a more targeted basis, dependent upon placement requests made to the Fostering Service. Some examples of these are long term carers, foster carers interested in caring for large sibling groups, older children and foster carers who have a specific skill base and experience in caring for children who are more challenging and have specific needs.

In relation to Foster Carer Service Agreements the most notable change is the introduction of a new Foster Carer Service Agreement that seeks to encompass legislative changes relative to Continuing Care. Whilst young people who remain in foster placements beyond 18 years old are not classed as Looked After Children, the Fostering Service is still required to support those carers who offer placements to young people who request to remain in situ after their eighteenth birthdays. As such, these carers are now classed as Supported Carers and approved accordingly. The Fostering Service made changes to the existing Foster Carer Service Agreement to reflect these legislative amendments and the resultant change in carer role. One important change is how these carers are reviewed, as this is longer via a Foster Carer Review but undertaken by The North Ayrshire Council Throughcare Team who provide an ongoing support role to the young person and Supported Carer. Where the foster carer continues to foster younger children, the Fostering Service retains an overview of the Continuing Care placement, liaising with the Throughcare Team where required.

In relation to induction, in 2017 the Fostering Service redesigned its induction pack for newly approved foster carers. The information contained within this induction pack was updated to reflect a standardised approach to ensuring all newly approved carers received the same information.

With regard to personal development for the foster carers, the Foster Carer Handbook (2018) outlined the following:

*A foster carer's own development is also central. This includes an ability to appreciate how personal experiences have affected them and their families, and awareness of the possible impact of fostering on their own family. Foster carers also must have a commitment to training and continued learning within the fostering role.*

(Source: The North Ayrshire Council Foster Carer Handbook (2018))

## ii) Practice

### Past (1996 – 2014)

#### a) Did the local authority adhere in practice to its policies/procedures in relation to foster care?

There is evidence that The North Ayrshire Council Fostering Service adhered to the procedures, which laid out the guidance for assessment and approval of foster carers, post-approval support, management of complaints and allegations

and monitoring and support of foster carers practice. The Fostering Service was also subject to regular statutory inspection and was graded in accordance with how it adhered to regulations and standards.

For further information in relation to The North Ayrshire Council's adherence in practice to policies and procedures in relation to foster care please see Section 4.2 (ii) (b) and (c).

Further information regarding Care Inspectorate Reports generally is included within Section 5.4.

**b) Did the local authority adhere in practice to its policies/procedures in terms of the following:**

**i. Recruitment**

From file review, there is evidence that The North Ayrshire Council Fostering Service adhered to its procedures in relation to recruitment of foster carers. There is evidence of a consistent approach over the relevant time period. During the assessment stage, prospective foster carers were required to explore their own history of being parented, attitude to diversity, understanding of early life trauma and its impact on children, view on discipline, capacity to empathise with a child's early life experiences, commitment to the fostering task over employment opportunities, understanding of identity and willingness to attend ongoing training opportunities.

Prospective foster carers were also recruited from within the geographical location of the Service, recognising that local people were often best placed to understand the needs of local children. Evidence of the above can be seen from the assessments completed across the relevant time period.

Furthermore, as the Service developed in terms of numbers of foster carers and the requirements placed upon them, standard practice ensured that all prospective foster carers were required to attend preparation groups prior to being formally accepted for assessment by the Service. This was done to ensure that the selection process was sufficiently rigorous and provided the opportunity for prospective carers to withdraw from the process at an early stage.

The following extracts from Care Commission Reports conducted during this timeframe evidence adherence in relation to recruitment:

*"Foster and Impact Carers and members of their families had taken part in a recruitment drive to identify potential carers. an experienced carer had undertaken training to enable her to assist with the preparation groups organised as part of the assessment of potential foster and impact. She said that she thoroughly enjoyed taking part and was confident that her opinions were valued by staff. She confirmed she was expected to complete*



*an evaluation sheet for each of the applicants attending the preparation course. Foster and Impacct carers commented that they found the input from an experienced carer during the preparation meetings to be one of the most useful parts of the course.*

*The provider had a recruitment and selection policy and procedure. Prospective employees were required to complete an application form. They were provided with written information to inform them about the aims and values of the service. Recruitment practice required candidates to undergo a Disclosure Scotland check and provide names of two referees. Records about disclosure Scotland checks were appropriately stored and recorded and there was a system for rechecking these. There was also a system to ensure that candidates were physically and mentally fit to undertake the work for which they were employed."*

(Source: Care Commission Report dated 17<sup>th</sup> December 2009, completed by Joy Hill, Care Commission Officer).

*"Prospective Impacct and foster carers were encouraged to participate fully in the assessment process. Carers involved in the Inspection said: 'The preparation meeting was very informative and made you think about your views and values'.*

*'I don't think the preparation could be any more detailed, but nothing prepares you for the intensity of looking after children. But our link worker was excellent and gave us the support we needed'.*

(Source: Care Commission Report dated 21<sup>st</sup> January 2011, completed by Liz Adam, Care Commission Officer).

There is evidence from files read that references were sought from former partners and contact was made with adult children, including those living outwith the household. This was in accordance with The Looked After Children (Scotland) Regulations 2009 and the recommendations of Inquiries undertaken such as Brighton & Hove (2001).

## **ii. Standard and size of accommodation**

There was variation in practice in this area within the relevant time frame. Consideration of accommodation available for fostering was evident in most fostering assessments however there was greater emphasis on the quality and review of this from 2011 (with the introduction of the new Fostering Schemes). The North Ayrshire Council Fostering Service sought to ensure in practice that the standard and size of accommodation provided for Looked After Children was appropriate, i.e. health and safety checks were carried out as standard on every home, with the assessing social worker making an inspection of the home against an agreed format, in particular in order to ensure that children had their own bedroom. Regular checks were also carried out, on at least an annual basis, to ensure that the foster carers' accommodation continued to meet required expectations. The Fostering Service also completed an unannounced visit to the foster home when the foster child was present, during which the child's bedroom required to be

assessed as standard practice. This took place a minimum of once per year and was a requirement of the annual Foster Carer Review process.

The Chairperson of the Foster Carer Review, who was independent of the Fostering Service, was responsible for providing independent scrutiny of the Fostering Service and foster carers practice in order to ensure that appropriate checks were carried out and standards met. Any concerns in relation to accommodation standards were referred to the Manager of the Fostering Service for their attention and action.

### iii. **Number, age and gender of children accommodated/in the household**

In practice, The North Ayrshire Council Fostering Service adhered to the procedures in relation to the number, age and gender of children accommodated in the fostering household. This can be evidenced from file review, as foster placements were seen to reflect the approval status of the foster carer.

From 1996 – 2014, the number of children, their age and gender (in terms of approval status for foster carers) remained dependent on numerous factors. This included age of birth children, size of accommodation and the foster carers' assessed capacity and skills to manage children with particular behaviours and/or needs. This was considered at Foster Carer Reviews and Fostering Panels and approval criteria amended accordingly. The following extract from the Care Commission Report in 2006, evidences adherence in practice:

*"Carers confirmed that they were aware of the number, age range and gender of children that may be placed with them and this was looked at during reviews."*

*(Source: Care Commission Report 6<sup>th</sup> June 2006, Isobel Dumigan, Care Commission Officer).*

In 2011, the Fostering Service introduced a new Fostering Scheme (Fostering Xtra). This scheme sought to focus on sourcing and supporting placements for older children, aged ten and above, who were assessed as displaying complex behaviour as a consequence of their early life trauma. In particular, the aim was to provide family-based placements for children and young people who were accommodated within residential houses (units).

Over the relevant time period, there were occasions where children were placed with foster carers outwith their registered approval status. This would only occur as a matter of last resort. Where this occurred, risk assessments were completed to assess the foster carer's capacity to safely care for additional children, who may also have been outwith their approved age range. This was to ensure that all children in the placement were safeguarded. Senior Management approval was sought and recorded prior to any such placement being made.



**iv. Pre-approval/registration checks**

There is evidence that The North Ayrshire Council Fostering Service adhered in practice to the pre-approval and registration checks to be completed on prospective foster carers. Assessing social workers were made aware that these checks must be completed prior to presenting their assessments to Fostering Panel. Without completion of these checks, the Fostering Panel would not generally consider the assessment. In some rare cases, if the assessing worker was still waiting on external agencies to complete the checks, the Fostering Panel could consider the assessment and recommend approval of the foster carers, conditional on the early receipt of satisfactory checks. In such circumstances no child would be placed with approved foster carers until the required checks were returned and the findings assessed as satisfactory.

**v. References**

There is evidence from file review that The North Ayrshire Council Fostering Service adhered to their procedures in relation to references. All references undertaken on foster carers were sought prior to the assessment of the prospective foster carer being presented to the Fostering Panel. This included references where the prospective foster carer had experience of working with children or vulnerable adults. If for any reason, these references were not returned on time, the presentation of the assessment to the Fostering Panel would either be delayed, until such time as the references were completed satisfactorily, or in rare cases the prospective foster carer may have been recommended for approval on a provisional basis with the caveat attached that no child was placed in their care until all relevant references were returned to the satisfaction of the Service.

If references were subsequently returned, but raised concerns for the Fostering Service, the prospective foster carer would return to the Fostering Panel to explore these issues and the Fostering Panel would make renewed recommendations about whether the prospective foster carer was approved or not.

**vi. Foster care agreements**

There is evidence from file review that The North Ayrshire Council Fostering Service adhered to their procedures in relation to Foster Carer Service Agreements. Following approval, foster carers were required to sign the Foster Carer Service Agreement prior to any child being placed. This formed the contractual agreement between The North Ayrshire Council Fostering Service and the foster carer and set clear expectations regarding fulfilment of the fostering role.

**vii. Induction**

There is evidence that The North Ayrshire Council Fostering Service adhered to their Fostering Procedures, in relation to the induction of foster carers. In files read, dating from early in the relevant time period, preparation for the fostering role was often carried out individually with the prospective foster carer by the assessing social worker.

Over said time period, one notable change to practice was that all prospective foster carers were required to attend preparation groups, prior to the commencement of their assessment. The aim of this induction and preparation stage was to ensure that all prospective foster carers were fully informed of the complexity and challenges involved when caring for Looked After Children and to gauge their strength of commitment.

There is also evidence from 2011 onwards that all newly approved foster carers completed core training in the first two years of approval. This included training in Child Protection and 'Safer Caring' (within the first year), First Aid in Foster Care, Child Development, Life Story Work, Attachment and Social Media. In addition, all new foster carers were provided with a Foster Carer Handbook.

**viii. Transfer of foster carers to or from other organisations including local authorities**

There is evidence that The North Ayrshire Council Fostering Service adhered to their Fostering Procedures in relation to the transfer of foster carers to or from another organisation or another local authority.

It was standard practice, following initial inquiries being made, that the Fostering Manager and the assessing social worker arranged a meeting with the registered organisation for the foster carer to discuss issues relating to the transfer. This information included any history of allegations or complaints made against the foster carer, their willingness to work to agreed care plans and the nature of their relationship with the 'transferring' Fostering Agency.

The assessing social worker for The North Ayrshire Council Fostering Service completed a re-assessment of the foster carers, reflecting any changes to the foster carer's circumstances since original approval. They also undertook all relevant checks and references, explored the foster carer's experience and development within the fostering role and reviewed training undertaken since their original approval. This assessment was presented to The North Ayrshire Council's Fostering Panel and the procedures already outlined in relation to the approval of foster carers were thereafter followed.

See also Section 4.4 (i)(d)(viii).



### ix. Review/supervision

There is evidence that The North Ayrshire Council Fostering Service adhered to the procedures relating to Foster Carer Reviews and foster carer supervision, as outlined in the Foster Carer Service Agreements and the Fostering Procedures (2007).

Foster Carer Reviews were chaired by an Independent Reviewing Officer. This allowed for objectivity and scrutiny of the practice of both the foster carer and the Fostering Service, including a level of monitoring in relation to the Fostering Service's adherence to procedures. This is evidenced in the following extracts from Care Commission reports:

*"Foster carer home reviews were held in accordance with legislation and we looked at the minutes of these when we examined case files that were selected at random. These reviews were independently chaired, a change from previously. Managers, staff and carers considered this a very positive move ensuring 'arm's length' monitoring. Case files also revealed that the views of children, birth parents and other stakeholders had been taken into consideration and there were completed foster carer agreements in all the files examined. Discussion with the registered manager of the service indicated that annual reviews although this exceeds the requirements of the new 2009 Regulations. This is seen as an important process for safer caring practice and the provision of the service in accordance with the National Care Standards for Fostering Services".*

(Source: Care Commission Report dated 21<sup>st</sup> January 2011, completed by Liz Adam, Care Commission Officer).

*"The suitability of foster carers was reviewed; health and safety checks were renewed."*

(Source: Care Inspectorate Report dated 9<sup>th</sup> December 2013, completed by Anne Borland, Inspector).

There were also robust processes in place to ensure that the views of children in placement were represented within Foster Carer Reviews. This is evidenced within the following extract from the Care Commission Report (2009).

*"Children's Social Workers were required to contribute to Foster Carer Home Reviews by providing written feedback which included the views of the child placed and, where appropriate, the child's family. Children 1<sup>st</sup> and Who Cares? Scotland advocates were available to young people in foster care"*

(Source: Care Commission Inspection Report dated 17<sup>th</sup> December 2009, completed by Joy Hill, Care Commission Officer")

In relation to supervision for foster carers, from files read there is evidence that this took place on a monthly basis. An aim of this regular supervision was to encourage foster carers to reflect on their day to day interactions with children and promote the development of therapeutic parenting

strategies. Evidence of adherence to procedures for supervision is provided by the following:

*“Other areas where approved Carers have given their views include the introduction of formal supervision meetings between carers and their link workers. Carers were provided with a copy of the policy and procedure which would support this scheme as well as copies of the forms which would be used for recording the meetings”*

(Source: Care Commission Report dated 21<sup>st</sup> January 2011, completed by Liz Adam, Care Commission Officer).

*“Carers also praised the link workers for the regular one to one support they provided”*

(Source: Care Commission Report dated 17<sup>th</sup> December 2009, completed by Joy Hill Care Commission Officer”)

#### **x. Training**

There is evidence that The North Ayrshire Council Fostering Service adhered in practice to their procedures in respect of training. All foster carers signed a Foster Carer Service Agreement, with a contractual obligation to attend training. The training programme provided by the Fostering Service over the relevant time frame developed as new research came to light. Attendance at training was monitored as part of the annual Foster Carer Review. Where foster carers did not meet their annual requirements for training this was specified as an action to be followed up by the Fostering Service over the course of the following year.

Foster carers had a training record. Foster carers were supported by their supervising social worker to access training dependant on their learning needs and specific to the needs of children in their care.

All approved foster carers were also made aware of the need to attend ‘core’ training in the first two years following approval.

#### **xi. Personal development**

In practice, The North Ayrshire Council Fostering Service promoted foster carers personal development and continued professional development through regular supervision and training opportunities. This can be evidenced from the file review undertaken for the Inquiry.

#### **xii. Disciplinary actions**

There is evidence from file review that The North Ayrshire Council Fostering Service adhered to their procedures in relation to allegations and/or complaints against foster carers. Where it was concluded from assessment



or investigation, that thresholds had been crossed in respect of a foster carers actions/non-compliance with contractual obligations and/or unacceptable care standards or safeguarding of Looked After Children, action was generally taken in respect of the foster carer. This included improvement plans being put in place, additional training, reassessment or consideration of approval at Foster Carer Review or Fostering Panel. Ultimately this resulted in some foster carers being deregistered.

### **xiii. Removal of approval/registration**

From files read, there is evidence that The North Ayrshire Council adhered to its Fostering Procedures in respect of the removal of a foster carer's approval/registration.

Final decisions in relation to foster carers' approval status remained with the Agency Decision Maker, with the Fostering Panel making a recommendation only.

There is evidence that foster carers have, at times, requested a review of the Agency Decision Maker's final decision. On each such occasion, The North Ayrshire Council Fostering Procedures were followed and a second Fostering Panel was convened, with a new cohort of Panel Members. The recommendation of this Appeal Panel was provided to the Agency Decision Maker for consideration within appropriate timescales.

### **c) How was adherence demonstrated?**

Adherence to procedures relating to foster care is evidenced within case records, Care Commission and Care Inspectorate Reports, Foster Carer Review Minutes, Foster Carer Service Agreements and Fostering Panel Minutes across the relevant time period. There are also additional documents that provide evidence of adherence, such as minutes of formal supervision sessions undertaken by supervising social workers in respect of their foster carers.

### **d) How can such adherence be demonstrated to the Inquiry?**

Adherence can be demonstrated from the sources noted within Section 4.4 (ii)(c) above.

### **e) Were relevant records kept demonstrating adherence?**

Please see Section 4.4, (ii)(c) above. In addition, Fostering Panel minutes were also retained where prospective foster carer applications were withdrawn/not approved, due to issues raised during the course of the assessment.

**f) Have such records been retained?**

Please see Section 4.4 (ii) (c-e) above.

**g) If policy/procedure was not adhered to in practice, why not?**

The Fostering Procedures outlined practice expectations for foster carers. There were occasions where foster carers failed to adhere to such. The Fostering Service had clearly stated procedures to deal with such matters.

**Present (Dec 2014 – August 2019)****h) With reference to the present position, are the answers to any of the above different?**

Yes.

**i) If so, please give details**

It remains the case that The North Ayrshire Council adheres to policies and procedures, however these have evolved over this timeframe and some of these developments are outlined below.

In relation to recruitment, the Fostering Service now has an increased focus on the use of technology and social media campaigns to recruit potential foster carers. This is complemented by traditional methods of recruitment such as radio adverts, pop up events and open days.

In relation to the standard and size of accommodation, in 2018 The North Ayrshire Council amended the local Housing Policy. This now includes a specific protocol which affords prospective foster carers elevated priority in terms of access to social housing should they require additional bedroom space and be assessed as suitable in all other regards.

In relation to the number, age and gender of children accommodated within the household, in December 2014 an amendment was made to The Looked After Children (Scotland) Regulations 2009. This stipulates a maximum of three unrelated children can be placed in any fostering household, at any one time. This is regardless of the size of property. The North Ayrshire Council reviewed all approvals to comply with this new Regulation and have limited future approvals accordingly.

In relation to induction, since 2015 The North Ayrshire Council Fostering Service now facilitates preparation groups for foster carers using The Fostering Network's Skills to Foster materials. Preparation groups now have an increased focus on issues such as diversity, trauma, abuse and the impact of adversity in early childhood.



In addition, the Service also sought to increase the standardisation of post-approval induction in 2017, by updating and increasing the information given to newly approved foster carers.

In relation to the transfer of foster carers to, or from, other organisations (including local authorities) the protocol devised by The Fostering Network was formally updated in 2015. The North Ayrshire Council Fostering Service now adheres to this protocol in respect of all transfers.

In relation to recruitment and review of foster carers approval/registration, the following extract from the Care Inspectorate Report (2015) provides evidence of adherence:

*“We found the service kept a range of data bases which included referrals from those applying to be foster carers. This meant the manager could track the progress of assessments. We found that assessments were being completed within six month timescales unless there were specific reasons to delay the application. Foster home reviews and statutory checks were monitored in this way and we found significant improvement in the frequency of reviews held.”*  
(Source: Care Inspectorate Report dated 13<sup>th</sup> March 2015, no inspector identified).

In relation to supervision of foster carers the following extract from the Care Inspectorate Report (2019) evidences adherence to procedures:

*“Carers told us that they, and young people, had regular contact with their supervising social worker. Monthly carer supervision was taking place and records were outcome focused and signed by the carers. We saw that carers felt highly supported and receive regular visits and telephone calls. One carer told us “staff care” which we felt was reflective of the support provided. Where there was limited contact with local authority social workers, carers said that supervising social workers kept them up to date and helped bridge this gap and we saw evidence of joint visits taking place with locality social workers as required.”*  
(Source: Care Inspectorate Report dated 4<sup>th</sup> June 2019, completed by Fiona Sheils, Inspector).

In relation to training, the Fostering Service continues to update its training materials for foster carers, to ensure that practice developments and current research are reflected within the training provided by the Service. There is also supplementary online training available to foster carers through AC Education.

The following extract from the Care Inspectorate Report (2017) evidences adherence to procedures:

*“Assessments for potential foster carers were evaluative and well written. Relevant checks were carried out to give assurance that applicants were suitable to foster children. On approval, foster carers worked towards evidence based practice through good quality training and regular monthly supervision. Robust fostering panel processes reviewed these inputs.”*

(Source: Care Inspectorate Report dated 3<sup>rd</sup> February 2017, no inspector identified).

Following the National Care Review (2013) an implementation group devised new placement descriptors, which were adopted by the Scottish Government in 2015. This Review also made further recommendations including the creation of a national database for foster carers and required standards of learning and development for foster carers, with the overall objective being to improve care planning and outcomes for children in foster care. The North Ayrshire Council adopted these new descriptors in 2016, and all foster carer approval was amended at the first available Foster Carer Review; where this was not scheduled, an additional Foster Carer Review was held. These descriptors are now fully integrated into procedures and practice within The North Ayrshire Council Fostering Service.

#### **4.5 Other members of the foster carer's household**

##### **(i) Policy**

##### **Past**

##### **a) What policies and/or procedures did the local authority have in place in relation to other members of the foster carer's household?**

The Fostering Service's Procedures from 1996 onwards stipulated that local authority checks and police checks/disclosures were required on all adults over sixteen years of age who resided within the fostering household. The initial assessment process for all prospective foster carers also considered all other family members within the fostering household in terms of their circumstances, relationships, suitability to be included within the fostering role, views in relation to becoming part of a fostering household and any previous approval, refusal or termination of such approval in respect of foster care.

##### **b) Was there a particular policy and/or procedural aim/intention?**

The aim was to ensure that any child placed in foster care was safeguarded and that the Fostering Service was fully aware of the circumstances and suitability of all fostering household members to have contact with Looked After Children.

##### **c) Where were such policies and/or procedures recorded?**

Initially, these procedures were provided in hard copy and made available to all relevant parties. Latterly, they were also uploaded onto The North Ayrshire Council's intranet for staff usage and The North Ayrshire Council public website as part of the information available for applicants and approved foster carers.



**d) Who compiled the policies and/or procedures?**

The North Ayrshire Council Fostering Service, as established in 1996, continued to use the Strathclyde Regional Council's Fostering Guidelines that were implemented in 1985 and adapted in respect of The North Ayrshire Council. Senior managers within The North Ayrshire Council's Children's Service were involved in updating The North Ayrshire Council Fostering Procedures in 2007 and subsequently the Foster Carer Service Agreements in place.

**e) When were the policies and/or procedures put in place?**

From 1996 until 2007, The North Ayrshire Council continued to use the Strathclyde Regional Council Fostering Guidelines, as implemented by Strathclyde Regional Council in 1985 and adapted for use within The North Ayrshire Council. In 2007, The North Ayrshire Council established its own Fostering Procedures which remained in place throughout the relevant time frame. The Foster Carer Service Agreements which reflected the procedures, contractual obligations and service expectations of approved foster carers were reviewed and updated regularly throughout the relevant period.

**f) Were such policies and/or practices reviewed?**

The Fostering Procedures were updated and reviewed as noted in Section 4.5 (i)(e) above.

**g) If so, what was the reason for review?**

Changes were made to the Fostering Procedures in line with new or amended legislation, changes in national policy and guidance or national practice developments.

From 2003 onwards, it specified within the Foster Carer Service Agreement that it was the foster carer's responsibility to inform the Fostering Service if anyone in their close family or network, who had contact with children in placement, was charged with a criminal offence. This remained a contractual requirement between foster carers and the Fostering Service throughout the relevant period.

In 2010, The North Ayrshire Council established two new schemes for foster care; Fostering First and Fostering Xtra. This was in recognition of the increasing professionalism of the fostering role and reflected a new focus for the Fostering Service, which was to recruit foster carers who were skilled and committed to providing placements for older children, particularly those who had been in residential care. These new schemes brought about a review of existing procedures, including those in relation to other members of the fostering household.

**h) What substantive changes, if any, were made to the policies and/or procedures over time?**

The Protection of Vulnerable Groups (Scotland) Act 2007 introduced the Protection of Vulnerable Groups Scheme (PVG). This came into operation through Disclosure Scotland in 2011 and introduced the requirement that Enhanced Disclosures would be completed on any adults aged sixteen or above who resided within the fostering household.

**i) Why were changes made?**

Changes were made to reflect amendments to practice guidance, both locally and nationally over the relevant period.

**j) Were changes documented?**

Amendments were noted within Fostering Procedures and the Foster Carers Handbook. In addition, the Foster Carer Service Agreement for all foster carers laid out the new contractual requirements for foster carers to notify the Service of any changes to the fostering household. The Fostering Service issued specific guidance relating to the implementation of the Protection of Vulnerable Groups Scheme (PVG) and Enhanced Disclosures for other adult household members.

**k) Was there an audit trail?**

Procedures were updated in response to changes in legislation and national guidance. Specific guidance in respect of the requirement for Enhanced Disclosures for other members of the foster carer's household was recorded and maintained within the electronic systems of The North Ayrshire Council Fostering Service.

**Present**

**l) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**m) If so, please give details.**

A further update of The North Ayrshire Council Fostering Procedures commenced in 2018. In respect of other adults within the fostering household, these procedures remain as outlined within The Protection of Vulnerable Groups (Scotland) Act 2007.



**(ii) Practice****Past****a) Did the local authority adhere in practice to its policy/procedures in relation to other members of the foster carer's household**

In files read from 1996, there is evidence that The North Ayrshire Council Fostering Service adhered to relevant legislation, policy and guidance in place from time to time and conducted similar checks on other members of the fostering household as were carried out during the operational period of Strathclyde Regional Council. These were colloquially referred to as 'boarding out checks' and consisted of criminal record, local authority and health board checks.

From files read dating from this early period, there was limited information available to evidence whether references were obtained, or interviews carried out, in relation to other persons within the household of prospective foster carers. There is however evidence that this became established as common practice latterly.

Information regarding members of a fostering household was included within the assessment reports of prospective foster carers considered by the Fostering Panel prior to recommendation for approval. Similarly, any change to the membership of a foster carer's household was considered at Foster Carer Review and Fostering Panel to ensure children were not exposed to inappropriate adults.

From files read, there is evidence that where foster carers were found to have withheld information relating to changes to their household or criminal charges accrued by family members, this resulted in a Foster Carer Review/Fostering Panel and in some cases de-registration of the foster carer.

**b) How was adherence demonstrated?**

Evidence of adherence to policy and procedures in respect of other members of the fostering household has been identified from the following sources:

- Fostering Assessments
- Foster Carer Review paperwork
- Fostering Panel Minutes
- Case Records
- Information from police/Disclosure Scotland relating to adults residing within the fostering household
- Information held within case files, which gives details of local authority checks undertaken.

**c) How can such adherence be demonstrated to the Inquiry?**

Adherence can be demonstrated to the Inquiry through the provision of fostering files and/or electronic records as specified in Section 4.5(ii)(b) above.

**d) Were relevant records kept demonstrating adherence?**

The Fostering Service retained records of checks completed on members of the fostering household. This information is held within the foster carers file, through inclusion within the British Association for Adoption and Fostering (BAAF) Form F Assessment and/or in documentation from the agency responsible for carrying out the checks.

**e) Have such records been retained?**

The North Ayrshire Council has retained all foster carer records in line with statutory requirements since its inception in 1996. Prior to this date, foster carer records were held by Strathclyde Regional Council; these are now mostly located within the Mitchell Library, Glasgow. Prior to Strathclyde Regional Council coming into operation in 1975, all records relating to predecessor authorities are retained by Ayrshire Archive, located in Ayr.

Under the Fostering of Children (Scotland) Regulations 1996, the record for a foster carer or other person compiled under Regulation 18, was retained for at least 10 years from the date on which approval was terminated, or until death if earlier. This was amended by The Looked After Children (Scotland) Regulations 2009 whereby foster carer records required to be retained for 25 years. As previously referenced, the retention period was triggered either from the death of the foster carer or termination of the foster carer's approval and records are destroyed after this period. The North Ayrshire Council has a robust records management policy in place.

Where a mix of foster carer information and child information was held within the same record then a 100-year retention period was applied.

Further information relating to record keeping and retention schedules can be found in Section 4.9.

**f) If policy/procedure was not adhered to in practice, why not?**

From information gathered for the purpose of this response, it is clear there were instances when foster carers did not advise the Fostering Service of changes to the household and/or circumstances, of other members of the fostering household (e.g. a new partner) moving into the fostering household, adult family members returning to the household or adult family members being convicted of a crime. Where this occurred, and when the Fostering Service was alerted, immediate checks were progressed to ensure ongoing safety of any child in placement and the ongoing suitability of all members of the fostering household.



Such foster carers were also subject to review and their ongoing approval considered at a Fostering Panel, in response to their failure to notify the Fostering Service of the change in their circumstances in breach of their contractual agreement. De-registration was considered in these situations.

### Present

- g) **With reference to the present position, are the answers to any of the above questions different?**

Yes.

- h) **If so, please give details.**

Since 2014, alongside Enhanced Disclosure and local authority checks being carried out, it is standard practice that all adult members of the fostering household are interviewed during the course of the fostering assessment or when they subsequently join the fostering household. Any change to the household composition can also result in a reassessment of the approved foster carer to consider the impact of the change on their fostering role and/or presentation to Foster Carer Review and/or Fostering Panel to consider their ongoing suitability.

### **4.6 Placement of Children by the Local Authority with foster carers approved/registered by other Local Authorities or organisations**

- (i) **Policy**

### Past

- a) **What policies and/or procedures did the local authority have in place in relation to placement of children with foster carers approved/registered by other local authorities or organisations?**

From 1996 onwards, The North Ayrshire Council Fostering Service adhered to the policy and procedures, as adapted for use by The North Ayrshire Council, relating to children placed with voluntary fostering agencies. Within the procedures there was no specific reference to children placed with other local authorities. However, unwritten policy in this respect adhered to in-house practices in respect of duties owed to children placed. As the voluntary organisation or other local authority will have had responsibility for approval and supervision of the foster carers, the relationship between the local authority and the foster carer was different in these situations.

Placement of children with foster carers approved/registered by other fostering organisations formed part of The North Ayrshire Council Fostering Procedures from 2007. The outline procedure was as follows:

- The North Ayrshire Council considered making an arrangement for a child or young person to be fostered by a voluntary, not-for-profit organisation
- The Senior Manager responsible for the Foster Care Service held necessary information on the voluntary organisations operating in Scotland which might, from time to time, be used
- Senior management updated, on an annual basis, such information and were satisfied that the Service provision and all standards matched those applied by The North Ayrshire Council
- Referrals for a foster placement outwith The North Ayrshire Council's own resources, with a voluntary organisation, were authorised by a Senior Manager, who had the authority to authorise exploration of the resource and agree funding
- The North Ayrshire Council remained responsible for all Looked After Children and young people placed with voluntary organisations, including for:
  - their welfare
  - the Foster Placement Agreements
  - management of placements
  - notification of placements
  - record keeping for the children and young people
  - any other matters such as arrangements for education and medical consent issues
- The Manager of the Fostering Service maintained
  - a link role with voluntary organisations
  - a record of all placements made with voluntary organisations
- The Manager of the Fostering Service was responsible for organising Foster Placement Agreements for all placements with voluntary organisations
- Placing workers continued to hold responsibility for the children and young people placed with voluntary organisations. In particular, they were responsible for visiting and supporting the children and young people, as they were for those placed with The North Ayrshire Council foster carers
- Looked After Children's Reviews were conducted by The North Ayrshire Council
- Managers and other relevant staff of respective voluntary organisations were invited to these reviews



- In terms of Regulation 17 of the Fostering of Children (Scotland) Regulations 1996:
  - the child, or young person's worker, or Senior Manager, was required to visit her/him within 14 days of any request, by the voluntary organisation, to do so
  - the child or young person's worker, or Senior Manager was required to visit as soon as possible and, in any case, within 7 days if and when any questions were raised about the welfare of the child or young person
  - the Manager of the Fostering Service was to be kept informed of all such visits
  - a record was to be kept of all concerns raised in terms of Regulation 17 of the Fostering of Children (Scotland) Regulations 1996

In 2013, the Scotland Excel National Framework was implemented, with the requirement that local authorities would adopt this when contracting and commissioning foster care placements from external fostering providers. This provided a register of fostering providers who were appropriately registered and met the necessary contractual requirements. This came into effect in two discreet stages over the following years.

The framework covered both core services ("Standard") and enhanced or specialist ("Enhanced") services as well as short breaks. The scope of services was expanded from the previous national framework in response to feedback from local authorities that they would prefer to use one framework for a greater range and proportion of their purchased foster care.

The North Ayrshire Council Fostering Service adjusted policy and practice in respect of external placements accordingly.

**b) Was there a particular policy and/or procedural aim/intention?**

In 1992, Social Work Services Inspectorate for Scotland produced a report 'Another Kind of Home: a review of residential child care' by Angus Skinner. A key point of the report was that "family care should be preferred for children under twelve"

In 1996, The North Ayrshire Council continued to promote the Strathclyde Regional Council policy aim of placing all children under 5 (except when keeping a sibling group together) and most children under 8 years of age within a foster family.

When insufficient foster placements were available in-house to implement this, there were occasions that foster placements for children within these age ranges were purchased by The North Ayrshire Council from external fostering agencies.

The North Ayrshire Council Fostering Procedures (2007) focused on ensuring that the needs of Looked After Children and young people were met through the provision of as wide a range of carers as was required. When this involved placing children with external, voluntary or not-for-profit organisations, the

procedures stated that The North Ayrshire Council must ensure it fulfilled its statutory responsibilities and had appropriate arrangements in place to manage placements with other organisations.

These procedures also provided clarity about the nature of Foster Carer Service Agreements required. It was stipulated that a contract between The North Ayrshire Council and the external provider was for an individual placement only. The North Ayrshire Council remained responsible for the welfare of all placed, Looked After Children and young people (whether internal or external placements) and for all the arrangements for them, including Foster Service Agreements, notifications, records, education and issues around medical consent.

The local policy aim for The North Ayrshire Council reflected national policy objectives for foster care, which was to support children to be rehabilitated within their families, or if this was not possible, to provide an alternative home.

**c) Where were such policies and/or procedures recorded?**

Following the inception of The North Ayrshire Council the policies and procedures, as recorded within the Strathclyde Regional Council Fostering Guidelines, were adapted and used by The North Ayrshire Council.

From 2007 onwards, these were recorded within The North Ayrshire Council Fostering Procedures. Said procedures were available on the intranet at that time and were also available in hard copy for the Fostering Service and foster carers.

From 2013, procedures were also recorded within the Scotland Excel Framework Guidance.

**d) Who compiled the policies and/or procedures?**

The North Ayrshire Council Fostering Service, as established in 1996, continued to use the Strathclyde Regional Council's Fostering Guidelines that were implemented in 1985 and adapted in respect of The North Ayrshire Council. Senior managers within The North Ayrshire Council's Children's Service were involved in updating The North Ayrshire Council Fostering Procedures in 2007 and subsequently the Foster Carer Service Agreements in place.

Scotland Excel is the Centre of Procurement Expertise for the local government sector. Established in 2008, as a leading non-profit shared service funded by Scotland's 32 local authorities, Scotland Excel provide the contact register and framework for local authorities in sourcing purchased fostering placements.

**e) When were the policies and/or procedures put in place?**

From 1996 onwards, The North Ayrshire Council Fostering Service adhered to the policy and procedures laid out within the Strathclyde Regional Council



Fostering Guidelines, which had been adapted for use by The North Ayrshire Council in 1997.

Revised North Ayrshire Council Fostering Procedures were put in place in 2007 and remained in use throughout the relevant time period.

The Scotland Excel Framework was implemented in 2013.

**f) Were such policies and/or practices reviewed?**

In 2007, the Fostering Service formally reviewed and updated the existing Fostering Procedures. Since this time, there was practice guidance and unwritten policy issued associated with external fostering provision. This was implemented to reflect changes in national protocol arrangements in respect of the outsourcing of foster placements.

**g) If so, what was the reason for review?**

As noted previously, initially The North Ayrshire Council continued to use the Fostering Procedures introduced by Strathclyde Regional Council, which had been adapted for The North Ayrshire Council. These were reviewed in 2007, when The North Ayrshire Council implemented fostering procedures that more accurately represented the evolving aims and objectives of The North Ayrshire Council Fostering Service.

**h) What substantive changes, if any, were made to the policies and/or procedures over time?**

See Section 4.6 (i)(g) above. The procedures in relation to external providers remained the same from 2007 to 2013, when they were complemented by the Scotland Excel Framework.

**i) Why were changes made?**

See Section 4.6 (i)(g) & (h) above. Changes were also made in recognition of the introduction of the Scotland Excel Framework in 2013.

**j) Were changes documented?**

Changes were documented within The North Ayrshire Council Fostering Procedures (2007). There was also guidance provided by Scotland Excel when the new framework was implemented in 2013.

**k) Was there an audit trail?**

See Section 4.6 (i)(j) above. In particular, changes in relation to the Scotland Excel Framework were available electronically and in paper copy to staff in the Fostering Service.

**Present****l) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**m) If so, please give details.**

Within The North Ayrshire Council Fostering Service, placements for children with foster carers approved/registered by other organisations now adhere strictly to the protocol within the Scotland Excel Framework.

The Scotland Excel Framework was developed in a context of change in national legislation and policy and included the recommendations of the National Review of Foster Care (2013) and The Children and Young People (Scotland) Act 2014.

The legislative and policy changes relating to the Scotland Excel Framework were gradually rolled out nationally and although operational in The North Ayrshire Council from around 2013, it was extended in 2016 with the inclusion of additional external fostering providers.

The North Ayrshire Council Fostering Service adheres to the Framework's inherent principles and objectives, as laid out in Scotland Excel Contract Register (2017) which are:

- to provide consistency of standards across foster care services, purchased by local authorities/Health and Social Care Partnerships
- promote best practice and national policy, ensuring compliance with the Fostering Review and legislative changes (in particular the Children and Young People (Scotland) Act 2014)
- support compliance with the Looked After Children (Scotland) Regulations 2009
- promote the rights and outcomes of children, in purchased foster care and their engagement in services
- offer increased financial transparency for purchase of foster care services
- offer robust terms and conditions for making placements



- provide ease and efficiency of administration of purchased placements
- give maximum choice of services and providers available, to meet diversity of needs
- support young people's choices in relation to continuing care

A review of The North Ayrshire Council Fostering Procedures commenced in 2018 in line with practice developments nationally and locally.

## (ii) Practice

### Past

#### a) Did the local authority adhere in practice to its policy/procedures in relation to placement of children with foster carers approved/registered by other local authorities or organisations?

The North Ayrshire Council adhered in practice to its own policy/procedures in this regard.

All children placed in foster care provided by external organisations were governed by standards laid out within the Arrangements to Look After Children (Scotland) Regulations 1996 and The Looked After Children (Scotland) Regulations 2009 in relation to both required frequency of placement visits by Children & Families social workers and review processes. The North Ayrshire Council Fostering Service also provided support regarding the placement and acted in an advisory role, as required.

From 2010 onwards, and following a significant service review, the overall strategy of The North Ayrshire Council was to provide fostering placements from within their own Fostering Service and significant investment was made in staffing and recruitment accordingly. Additional allowances and fees were also provided to approved foster carers, in recognition of the increased professionalism of the fostering role.

Between 1996-2014, where the Fostering Service was unable to provide a foster care placement in-house (either due to a child's needs or capacity) external agencies would be approached. Where this occurred, the Fostering Service then prioritised matching considerations in relation to the suitability of the placement.

#### b) How was adherence demonstrated?

There is evidence, from files read, that The North Ayrshire Council met their statutory responsibilities for Looked After Children in external placements and that the local authority regularly reviewed and care planned for those children. This was carried out in accordance with the Looked After Children (Scotland) Regulations 2009. Said evidence includes:

- Placement agreements/contracts in place, prior to and after the introduction of the Scotland Excel Framework
- Minutes of regular meetings between the Fostering Service and external foster agency managers, detailing placement discussions
- Weekly and monthly reports, submitted by external Fostering Agencies, regarding the progress of children in placement
- Children's records/care plans evidencing how children's needs have been met whilst in external foster care placements.

**c) How can such adherence be demonstrated to the Inquiry?**

Adherence can be demonstrated to the Inquiry through the provision of such materials as are detailed in Section 4.6 (ii)(b).

**d) Were relevant records kept demonstrating adherence?**

The North Ayrshire Council maintained sufficient records to evidence procedures were adhered to in respect of the purchase and monitoring of external foster care placements.

In particular, Individual Placement Agreements (IPA) detailing a child's needs, care plan and the expectations of the external Fostering Agency were utilised by The North Ayrshire Council Fostering Service in relation to children placed with external providers.

Case records were also maintained in relation to each child in placement.

Looked After Review Minutes clearly documented a child's care plan and the responsibilities of each professional. This included the foster carer and the external Fostering Agency.

Foster Carer Reports for Looked After Reviews evidence that children's wellbeing indicators were supported by foster carers provided by external Fostering Agencies.

Paperwork pertaining to meetings between Managers of the Fostering Service and external Foster Care Agencies was also retained by The North Ayrshire Council Fostering Service.

**e) Have such records been retained?**

The records have been retained in line with statutory retention schedules. Over time, there was a move towards retaining records electronically and Individual



Placement Agreements completed more recently have been most readily accessible for the purpose of the Inquiry.

Please see Section 4.5 (e) for further details.

**f) If policy/procedure was not adhered to in practice, why not?**

There is evidence that policy and procedure was adhered to in practice.

**Present**

**g) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**h) If so, please give details.**

From approximately 2016, The North Ayrshire Council Fostering Service, when outsourcing foster care placements either as a result of capacity issues or the specific needs of a child(ren), now commissions these exclusively from the updated Register of External Fostering Providers provided by The Scotland Excel Framework. These external fostering providers are appropriately registered and meet the necessary contractual requirements of the framework. Use of said framework demonstrates ongoing adherence to procedures in place.

Updated Individual Placement Agreements (IPAs) are also in place for each child placed with an external Fostering Agency. These form the basis of the contractual agreement between The North Ayrshire Council and the external Fostering Agency (Please refer to SD 23 Example of Individual Placement Agreement, Scotland, Excel Framework).

**4.7 Complaints and Reporting**

**(i) Policy**

**Past**

**a) What policies and/or procedures did the local authority have in place in relation to complaints and reporting about foster care?**

From the inception of The North Ayrshire Council in 1996, Strathclyde Regional Council's Child Abuse Procedures, as adapted for The North Ayrshire Council, continued to form the basis for investigation and resolution of Child Protection issues (including complaints/allegations within foster care) in North Ayrshire and Fostering Procedures aligned to these.

From 2011, The North Ayrshire Council had in place revised Child Protection Procedures. These were derived from The National Guidance for Child Protection in Scotland (Scottish Government, 2010) and the West of Scotland Child Protection Procedures (2011). The North Ayrshire Council Child Protection Procedures were subsequently updated in 2014, in accordance with amendments to national guidance (National Guidance for Child Protection in Scotland, 2014).

As noted above, The North Ayrshire Council Child Protection Procedures include guidance in relation to complaints within foster care. These can be summarised as follows:

- Detailed records to be kept of all allegations, investigations, findings and outcomes
- Information relevant to the carer will be retained in the carer's file
- Information relevant to the child will be held in the child's file
- Any reference to the carer will be held in a restricted access section of the child's file

From 1996 onwards, The North Ayrshire Council Fostering Service adhered to the procedures laid out within the Strathclyde Regional Council Fostering Guidelines, implemented 1985 and adapted for use by The North Ayrshire Council. In 2007, when The North Ayrshire Council implemented its own Fostering Procedures, guidance was provided in relation to management of complaints and allegations within foster care. These aligned to both national and local Child Protection Procedures in place at that time.

**b) Was there a policy and/or procedural aim/intention?**

The aim/intention was to safeguard children and deal with complaints/allegations in a thorough, appropriate and timely manner as well as ensuring the ongoing suitability and competence of foster carers.

It is clearly stipulated within The North Ayrshire Council Child Protection Procedures that the key principles of child protection are unchanged in relation to complaints/allegations within foster care. In particular, these state that:

*The central consideration and concern in responding to any referral/notification of concern must be the wellbeing and safety of the child. Similar to investigations into children living in the community, any looked after child voicing a concern or any allegation raised about the child must be listened to and taken seriously.*

*Responses should be proportionate to the perceived/assessed risk to the child. Decisions about whether to remove a child from a foster placement should be based on a well-informed assessment which balances the risks.*



*Early and full information sharing among the range of workers who may be involved was critical to making sound decisions about the child's safety. Foster carers, against whom an allegation was made, should be treated fairly with respect, their views taken seriously, and the principles of natural justice applied. Throughout any investigations, the child and their carers should be regularly updated on progress and delays in reaching decisions should be kept to a minimum.*

*(Source: The North Ayrshire Council Child Protection Procedures, 2014)*

Additionally, these procedures stipulated that all allegations of abuse about a foster carer were to be dealt with by appropriately trained child protection staff and Senior Managers within the Children & Families Service, rather than a member of the Fostering Team.

**c) Where were such policies and/or procedures recorded?**

As previously noted, from 1996 onwards, The North Ayrshire Council Fostering Service adhered to the policy and procedures laid out within the Strathclyde Regional Council Fostering Guidelines, which were adapted for The North Ayrshire Council. From 2007, when The North Ayrshire Council implemented its own Fostering Procedures, specific guidance was provided in relation to management of complaints and allegations within foster care. Where there was a child protection concern, this was dealt with under the standard Child Protection Procedures aligned and updated in accordance with the national and local Child Protection Procedures (The North Ayrshire Council Child Protection Procedures 2011 & 2014). Both documents were readily available electronically and in hard copy.

**d) What did the policies and/or procedures set out on the following?**

**i. Complaints by children**

The North Ayrshire Council's Child Protection Procedures and Fostering Procedures outlined policy and practice in relation to complaints and allegations. If a complaint was made by a child, this was to be investigated and every allegation/complaint was to be assessed on its own merit.

Any necessary action to safeguard children and young people, including to move them to an alternative placement, was to be taken as stated within The North Ayrshire Council's Child Protection Procedures.

The following provides a summary of information relating to procedures in relation to complaints by children which has been extracted from The Fostering Procedures (2007) and the Child Protection Procedures, (2014):

*The central consideration and concern in responding to any referral/notification of concern must be the wellbeing and safety of the child. Similar to investigations into children living in the community, any looked after child voicing a concern or any allegation raised about the child must*

*be listened to and taken seriously. Responses should be proportionate to the perceived/assessed risk to the child. Decisions about whether to remove a child from a foster placement should be based on a well-informed assessment which balances the risks. Early and full information sharing among the range of workers who may be involved was critical to making sound decisions about the child's safety. Foster carers, against whom an allegation is made, should be treated fairly with respect, their views taken seriously, and the principles of natural justice applied. Throughout any investigations, the child and their carers should be regularly updated on progress and delays in reaching decisions should be kept to a minimum.*

*Where the concern involves allegations/complaints of abuse, the carer will be subject to investigation on the same basis as other individuals. While not deviating from the primary concern to ensure the safety of the child, those exploring these types of concerns will need to address a number of additional considerations. Carers of 'looked after' children provide care from their own homes and are subject to scrutiny from statutory agencies. This can also create pressure and the issues particular to foster and respite care settings need to be understood by those responsible for exploring concerns. Looked After children will often have experienced disruption in their early years and been emotionally and physically neglected or abused. Earlier experiences can lead them to interpret care in diverse ways, they can feel that they are being treated unfairly, or guilt at being 'in care' and blame the carers, or they may report abuse to escape from difficult situations.*

*In most cases the concern will be about a specific harmful action or exposure to risk, but in others there may be a cluster of concerns or complaints which indicate that some aspect of the carer's practice, for example attitude to the child, use of discipline or standard of physical care, is exposing the child to significant harm or risk thereof.*

*Where a complaint is made against a carer which does not imply any significant harm to the child, or risk thereof, child protection investigations should not be used, and agency mediation and complaints procedures should be utilised instead. The service also had a process in place to consider resultant child protection issues, for the foster carer's own children, in the event of allegations made against the foster carer.*

*The child/young person's views would be sought during the investigation. If children were moved from a foster placement, due to safeguarding concerns, the reasons were to be explained carefully to them, using appropriate methods for communicating with younger children, or children with special needs as necessary.*

*Children/young people were to be, as far as possible, given an opportunity to express their views on moving placement. These views were to be taken into account, giving due consideration to the child, or young person's age, maturity and understanding.*



*In some circumstances, it was appropriate to offer children and young people the support of an independent advocate, or children's rights officer, to help them effectively present their views.*

*The child/young person was to be told of the process and ultimately the outcome of any allegation, in a manner suited to their age and understanding.*

*The Care Inspectorate was to be notified of any complaints or allegations. (Source The North Ayrshire Council Fostering Procedures, 2007 and The North Ayrshire Council Child Protection Procedures (2014)).*

## **ii. Complaints by foster carers**

All foster carers had the right to complain about the Service they were offered or if they felt they had not been treated fairly. It was recognised within the policy and procedures that complaints could also be a helpful way to recognise gaps or improvements needed within the Fostering Service.

Where foster carers raised concerns in relation to children placed with them, this was not managed through the Fostering Service complaints procedures. In effect, this was addressed via a variety of means, including general support and supervision for the foster carer, additional support to the child by their allocated social worker, updated risk assessments and/or interagency planning meetings to consider supports/actions to address the issues raised.

Where complaints were made by foster carers in relation to the Fostering Service, foster carers were encouraged (where possible) to resolve these via their supervising social worker. Where this was inappropriate or the matter remained unresolved, a meeting was arranged with the Fostering Team Manager. Foster carers could also access The North Ayrshire Complaints Process to raise and/or escalate complaints about the Fostering Service if they were dissatisfied with these measures.

If complaints could not be resolved either in relation to a child in placement or with the Fostering Service and it was viewed that continuing the placement would be detrimental for the child and /or the foster carer, the child was moved to an alternative placement deemed appropriate for their needs. Where appropriate, an End of Placement Meeting/Disruption meeting was held to consider the circumstances behind the move. The complaint and outcome were subsequently considered within a Foster Carer Review and/or Fostering Panel dependant on the nature of the complaint.

Between 1996 – Dec 2014, the Fostering Service was regulated and inspected by the statutory registering body in place from time to time (Scottish Council for Social Work Inspection Service (SCSWIS), Care Commission, Care Inspectorate) and a direct complaint could be made to them by foster carers. It was not a requirement to go through The North

Ayrshire Council's Complaints Process before doing so, although this was considered preferable.

Complaints could also be made to the Scottish Public Service Ombudsman (SPSO) although in such cases, the complainant required to exhaust The North Ayrshire Council's Complaints Procedure first. Contact with the Ombudsman normally required to be made within 12 months of the date of the alleged problem arising. Within the procedures, it was noted that in certain circumstances, the Ombudsman may have been prepared to consider events out with these timescales.

### **iii. Complaints by family members of children**

If a family member made an allegation/complaint regarding a foster carer these were addressed, as outlined, within the Fostering Procedures in place at the time or The North Ayrshire Council Child Protection Procedures, dependant on the nature of the complaint/concern. It was recognised within these procedures that birth parents may experience guilt, sadness and anger in relation to their children being looked after and this may be expressed in the form of complaints about the carer. The Service required to take said motivations into consideration when investigating the complaint although be careful to ensure that this did not influence the rigour of the investigation.

This notwithstanding, if the complaint/allegation was assessed to indicate significant harm to a child, a police referral was typically initiated. Where there was no immediate evidence of significant harm to a child and/or the complaint related to childcare practice, this was followed up via the Fostering Service in accordance with the processes outlined within the Child Protection Procedures. In circumstances where significant harm to the child was subsequently determined, a police referral was enacted accordingly.

Procedures stipulated that in the event of complaints/allegations, social work staff required to consider their statutory responsibility to involve parents in decisions which affected their children, alongside the child's wishes on what their parents should be told and, if appropriate, consideration about the child's safety. Records of initial decision-making discussions and planning meetings required to indicate what decisions were to be made in relation to informing birth parents (where they were not the complainer), what information was to be shared and who was responsible for telling them and how. Birth parents/those with parental rights were informed when an investigation was completed (if appropriate). In situations where decisions were made to delay, or limit the information given to parents/those with parental rights, reasons for this required to be recorded in the minute of the meeting where the decision was taken.

The outcomes of this process required to be provided in writing to birth parents/those with parental rights in respect of a child, the person against



whom the allegation was made and Senior Staff in the Children and Families Service.

If the complaint did not originate from a birth parent, or someone else who held parental rights in respect of a child, they were informed of the investigation and outcome as appropriate.

**iv. Complaints by third persons**

Every complaint and allegation received by The North Ayrshire Council was expected to be followed up under the guidance outlined within the Child Protection Procedures and Fostering Procedures in place at the time.

At each stage of the decision-making process, consideration required to be given to arrangements for informing birth parents that an allegation had been made against the foster carer looking after their child and the processes outlined in Section 4.7 (d)(iii) required to be followed.

Where this was considered appropriate, the complainant required to be informed of the investigation and outcome.

**v. Whistleblowing**

Over the relevant time period, there was no distinct policy/procedure in relation to whistleblowing within The North Ayrshire Council Fostering Service, separate from the Council's corporate Whistleblowing Policy. However, there is evidence from file reading that as a matter of established practice, when carers raised concerns about other foster carers, the Fostering Service or staff within The North Ayrshire Council investigated the matter in the same way as any other third-party complaint.

Please see Section 4.1 (e)(vii) for further information.

**vi. Support, including external support, for those who made the complaint or those who were the subject of complaint.**

The North Ayrshire Council Fostering Service provided individual membership of the Fostering Network for each approved foster carer. This provided both personal individual support, as well as legal support and, if necessary, covered any legal expenses which may have been incurred. In particular, the Fostering Network's booklet 'Allegations Against Foster Carers' contained information about what was likely to happen if an allegation was made, the investigation, legal procedures and where to get support. A copy could be readily obtained by carers from the Fostering Network Website.

Within The North Ayrshire Council Fostering Procedures (2007), it was stipulated that any complaints were to be rigorously investigated with carers

treated consistently, fairly and with consideration. Foster carers were to be given as much information as possible about the concern/complaint /allegation(s) and the scope of the investigation clarified at the earliest possible point, compatible with a thorough process. The role of the supervising social worker was to advise carers of the reasons for the removal of children (if applicable), contact arrangements for each member of the carer's family (with each child affected by the allegation), the ongoing status of their approval as carers, assist their communication with investigating agencies and to keep carers updated on the progress of the investigation, both verbally and in writing. Supervising social workers were also tasked with supporting carers to understand that in the event of their resignation while the investigation was underway, this would not affect the progress or outcome of the investigation

If any of the above matters had not been decided at the point the carers were first informed about the allegation, the remaining information required to be provided within two working days of the relevant decisions having been made.

Any complaints made by children were progressed as per the guidance laid down within the Child Protection Procedures in place at the time. This stipulated that children's views and feelings about their placement were central to decision making. Furthermore, consideration required to be given to their immediate safety and well-being and this should be acted upon appropriately.

Procedures indicated that communication with children through the investigation process could take many forms depending on the age, developmental stage and emotional state of the child. Consideration required to be taken of the child's age, physical and/or learning impairments, physical and/or mental health issues, cognitive abilities, linguistic abilities, race, culture, ethnicity and religion, first language, gender and sexuality, overall sexual educational/knowledge and experience and current emotional state. In some circumstances it was appropriate to offer children and young people the support of an Independent Advocate or Children's Rights Officer to help them effectively present their views.

**vii. Response to complaints (including response by the local authority)**

The North Ayrshire Child Protection Procedures and Fostering Procedures (2007) stipulate that the child, the foster carer and the child's birth family (where appropriate) would be told of the outcome of any complaint. For the child, this was to be in a manner suited to the child's age and understanding. Written information about the outcome was to be sent to the parents or guardians of the child, the person against whom the allegation was made and senior staff in the Children and Families Department.

Please see SD 19 (The North Ayrshire Council Child Protection Procedures, updated 2014) for further information.



**viii. External reporting of complaints**

Complaints and allegations in relation to children in foster care were subject to statutory reporting to the Regulatory body (i.e. Care Commission, SCSWIS, Care Inspectorate) in place from time to time.

**e) Who compiled the policies and/or procedures?**

From 1996-2007, The North Ayrshire Council continued to use the Child Protection Procedures and Fostering Guidelines, compiled by Strathclyde Regional Council in respect of complaints and reporting in relation to foster care.

Senior Managers within The North Ayrshire Council's Children's Service were involved in updating The North Ayrshire Council Fostering Procedures in 2007, including the guidance in relation to child protection.

Child Protection Procedures in The North Ayrshire Council were informed by the National Guidance for Child Protection in Scotland (2010) and the West of Scotland Interagency Child Protection Procedures (2011). These were compiled and adapted by relevant Senior Management within The North Ayrshire Council to fit the needs of the local authority and the Fostering Service in 2011 and have been subsequently updated as appropriate to reflect evolving legislation and guidance.

**f) When were the policies and/or procedures put in place?**

From 1996, The North Ayrshire Council continued to use the policies and procedures in respect of Fostering and Child Protection as outlined by Strathclyde Regional Council, which were adapted for The North Ayrshire Council. In 2007, The North Ayrshire Council implemented its own procedures for the Fostering Service which specifically incorporated information to manage complaints or allegations of abuse in relation to foster care. Procedures in relation to Child Protection within The North Ayrshire Council were developed in 2011 and aligned to the National and West of Scotland Interagency Procedures for Child Protection (2010, 2011 & 2014). These procedures were reviewed by The North Ayrshire Council in 2012 and 2013 and updated in 2014 to reflect evolving legislation and national guidance.

**g) Were such policies and/or practices reviewed?**

These were reviewed as detailed in Section 4.7 (i)(f) above.

**h) If so, what was the reason for review?**

The policies were reviewed and amended in accordance with updated national guidance, legislation and practice developments to ensure continuing best practice. Within The North Ayrshire Council Fostering Service, the guidance

issued relative to 'Managing allegations against foster carers and approved kinship carers' (2013) was also influential in shaping procedures and practice in respect of child protection/complaints and reporting within foster care.

**i) What substantive changes, if any, were made to the policies and/or procedures over time?**

The updating of procedures refined The North Ayrshire Council's responsibilities in terms of the aim/intent and process when managing allegations against foster carers. The following extract provides detail of said revision to The North Ayrshire Council Fostering Procedures (2007).

- *To ensure that carers and staff are clear about The North Ayrshire Council's policies and procedures when complaints and allegations are made about carers and how these operate together with The North Ayrshire Council's Child Protection Procedures*
- *To ensure that arrangements are in place to enable carers against whom complaints or allegations are made to access independent advice and support*
- *To ensure clarity about the role of carers' link workers (Supervising Social Worker) during the course of investigations*
- *To ensure agreed departmental processes for considering and dealing with situations when allegations raise questions as to whether fostered children and young people, and others also in the foster home, must be moved, or whether investigations can be conducted with them remaining in placements*
- *To ensure agreed processes for handling allegations made after children and young people have left foster homes*
- *To ensure agreed processes for considering carers' own children when allegations are made*
- *To ensure agreed processes for considering carers' own children when allegations are upheld*
- *To ensure clarity about the processes for informing current and future employers of carers about allegations made and allegations upheld against them*
- *To ensure a system for the review of each case when complaints or allegations are made, with opportunities for all staff to be de-briefed, offered support and training and to consider development issues*
- *To ensure that a full record is kept of all complaints and allegations, and of the investigation processes and outcomes, and that these records are held centrally*
- *To ensure that a copy is placed in the record and file of the relevant carer.*
- *To ensure that a copy is placed in the record and file of each child or young person affected by the complaint or allegation*
- *To ensure that a Foster Carer Review is held following a completed investigation and the outcome reported to the panel if it has not dealt with the review*



- *When a complaint or allegation against a carer is received, its nature must be immediately assessed to determine what action is required*  
(Source: The North Ayrshire Council Fostering Procedures (2007))

Further substantial changes were made with the introduction of The North Ayrshire Council Child Protection Procedures in 2011, which were further updated in 2014. These procedures formed the basis of the management of complaints and allegations in foster care within The North Ayrshire Council.

Please see SD 19 (The North Ayrshire Council Child Protection Procedures, updated 2014) for further information.

**j) Why were changes made?**

Changes were made in line with national policy, legislative and practice developments, including research findings and outcomes of Significant Case Reviews. The most significant changes were implemented as a result of the procedural reviews in 2007 and the introduction of The North Ayrshire Child Protection Procedures in 2011. Said Child Protection Procedures were further updated in 2014 to reflect evolving legislation and national guidance at that time.

**k) Were changes documented?**

All changes were documented as part of an updated version of The North Ayrshire Council's Procedures and disseminated accordingly.

**l) Was there an audit trail?**

Procedures were updated and retained within the Fostering Service. In relation to The North Ayrshire Council Child Protection Procedures, a primitive version control system was followed.

**Present**

**m) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**n) If so, please give details.**

The North Ayrshire Council's updated Fostering Procedures (2018) incorporate the most recent guidance in relation to handling of allegations of abuse for children within foster care ('Managing allegations against foster carer and approved kinship carers' (2013)).

**(ii) Practice****Past****a) Did the local authority adhere in practice to its policy/procedures in relation to complaints and reporting about foster care?**

There is evidence from file review and the Fostering Services Complaints Log that The North Ayrshire Council generally adhered in practice to its procedures in relation to complaints and reporting about foster care.

**b) Did the local authority adhere in practice to its policy/procedures on the following?****i. Complaints by children**

There is evidence from file reading that complaints made by children were investigated appropriately.

**ii. Complaints by staff**

There is evidence from file reading that complaints/allegations made by staff were investigated appropriately.

**iii. Complaints by family members of children**

There is evidence from file reading that complaints/allegations made by family members of children were investigated appropriately.

**iv. Complaints by third persons**

There is evidence from file reading that complaints/allegations made by third persons were investigated appropriately.

**v. Whistleblowing**

Over the relevant time period, there was no specific policy in relation to whistleblowing for foster carers. However, there is evidence that in practice, when foster carers raised issues and concerns about other foster carers, the Fostering Service or staff members that these complaints were appropriately acted upon and investigated.



**vi. Support, including external support, for those who made the complaint or those who were the subject of complaint**

There is evidence from file review that in practice said support was provided as appropriate.

**vii. Response to complaints (including response by the local authority)**

There is evidence from file review that most complaints were responded to appropriately. There are complaints with no information relating to the response provided to complainer or child. As stated previously this could be related to gaps in case recording that occurred over this time frame.

**viii. External reporting of complaints**

There is evidence from file review that external reporting of complaints was undertaken appropriately.

**c) How was adherence demonstrated?**

As above, there is evidence from files read and the Fostering Services Complaints Log that The North Ayrshire Council generally adhered in practice to its policy/procedures, in relation to complaints and reporting about foster care.

The record of specific complaints created for the purposes of the Inquiry response (Appendix 1 – Specific Complaints) evidences that in general, adherence can be demonstrated for the majority of the complaints and allegations in respect of children in foster care. It is acknowledged that thresholds of acceptable behaviours and what constituted abuse historically differs from the current criteria which is considered to be risk of significant harm and future risk to a child. Said record of specific complaints draws together recorded complaints and allegations, although for some there is no information as to how the allegation was followed up. It therefore cannot be confirmed that appropriate procedures were followed in respect of all allegations of abuse. It is noted that some of the specific complaints on file contain only partial records and/or have gaps in information. Practice in relation to recording has evolved and the quality of case recording historically indicates that it may not have been afforded the same emphasis and importance by individual workers as is now expected by the Fostering Service.

The North Ayrshire Council also reported relevant complaints to the Registering Statutory Body in place at the time and further details can be obtained by the Inquiry from the appropriate regulatory bodies as necessary. Additional evidence of the local authority's adherence in practice to its policy/procedures in relation to complaints and reporting is contained within Section 4.1 (e)(vi).

**d) How can such adherence be demonstrated to the Inquiry?**

Adherence can be demonstrated to the Inquiry through provision of relevant information held within:

- Children's files
- Foster carer's files
- The North Ayrshire Council Fostering Service Complaints Log
- Annual Returns to the statutory registering body
- Care Commission Reports and Care Inspectorate Reports.

**e) Were relevant records kept demonstrating adherence?**

Relevant records were kept demonstrating adherence. From 2009 onwards, a specific Complaints Log was maintained which documented complaints and allegations. Records of complaints were also contained within foster carer files, children's files and where appropriate reported to the registering Statutory Body in place at the time.

**f) Have such records been retained?**

Since 2009, a dedicated Complaints Log has been updated and retained by the Fostering Service. Prior to this, information relating to complaints and allegations was retained within the files of children and/or foster carers as appropriate.

Such record-keeping has enabled The North Ayrshire Council to carry out necessary review and provide a response detailing relevant complaints. Please see Section 5.9 for further information in this regard.

**g) If policy/procedure was not adhered to in practice, why not?**

The indication from extensive file reading is that procedures in relation to complaints and reporting about foster care were generally adhered to in practice.

**Present****h) With reference to the present position, are the answers to any of the above questions different?**

No.

**i) If so, please give details.**

Not applicable.



## 4.8 Internal Investigations

### (i) Policy

#### Past

#### a) **What policies and/or procedures did the local authority have in place in respect of internal investigations relating to abuse or alleged abuse of children in foster care?**

As previously stated, in 1996 The North Ayrshire Council Fostering Service adhered to the procedures laid out within the Strathclyde Regional Council Fostering Guidelines, implemented 1985, which were adapted for The North Ayrshire Council in 1997. From 2007, when The North Ayrshire Council implemented its own Fostering Procedures, specific guidance was provided in relation to management of complaints and allegations within foster care. These aligned to the National and Local Child Protection Procedures in place at that time.

Throughout the relevant timeframe, The North Ayrshire Council utilised Child Protection Procedures which laid out guidance in terms of internal investigations relating to abuse or alleged abuse of children in foster care. Where there was evidence of significant harm to a child in foster care, a Child Protection Investigation was initiated and Child Protection procedures followed.

In relation to internal investigations regarding abuse, or alleged abuse, of children in foster care, The North Ayrshire Council Child Protection Procedures (2011 & 2014) stipulated the following responsibilities for the Fostering Service:

*At three stages following a report/allegation/concern, The Fostering Services may be called upon to carry out further enquiries with a view to reviewing implications both for the foster carer's capacity to provide care and the appropriateness of current placements. These are:*

1. *Following initial consideration of a report/allegation/concern*
2. *Following formal or informal interagency discussions which decide not to proceed with a Child Protection Investigation*
3. *Following the completion of a Child Protection Investigation*

*The complexity of matters to be addressed and appropriate level of formality for these processes will vary widely. Some situations may only require the Fostering Service staff to carry out one or two interviews, followed by discussion of relevant issues, or others may call for a more protracted process carried out over several weeks.*

*Some issues may be able to be dealt with via the Foster Carer Review process, however some situations will require to be dealt with via a separate meeting which has been termed the 'Care Concerns' meeting.*

**b) Was there a particular policy and/or procedural aim/intention?**

The North Ayrshire Council's Child Protection Procedures were drafted with the intention of safeguarding all children (whether in the community or in foster care) and to ensure that any abuse, or alleged abuse, was investigated fully with appropriate action taken or resultant learning extracted to inform future practice.

The Child Protection Procedures were seen as a way to assist staff in effectively protecting children from abuse and neglect. These procedures also helped staff to identify indicators which may have suggested a child was being abused or be at risk of abuse in the absence of any complaint. The procedures outlined what should happen when concerns were reported and detailed respective roles and responsibilities for staff during internal investigations. The primary aim was to ensure effective interagency communication, collaborative working and a consistent framework for practice.

Professional judgement based on thorough assessment and critical analysis was required to ensure these procedures were applied appropriately to individual situations, and in accordance with the needs of the child. At any stage of a Child Protection Inquiry or Investigation, if it became apparent that Child Protection Procedures were not appropriate, the fieldwork Team Manager decided what supportive or protective response would best meet the needs of that child. The welfare of the child was always the paramount consideration in decision making.

An additional level of scrutiny (where this was deemed to be required in relation to child protection), was provided by the Initial Case Review (ICR)/ Significant Case Review (SCR) process. An ICR is an opportunity for the local authority Child Protection Committee to consider relevant information about a set of circumstances to determine the course of action and recommend whether a SCR, or other response, is required. A SCR is a multi-agency process for establishing the facts and learning lessons from a situation where a child has died or been significantly harmed. This is initiated when there is an incident or accumulation of incidents that give rise to significant/serious concerns about a professional and/or service involvement or lack of involvement relative to the care of a child. During the relevant time period, The North Ayrshire Council did not require to undertake any ICR/SCR in relation to a child in foster care.

**c) Where were such policies and/or procedures recorded?**

The North Ayrshire Council Fostering Procedures (2007) contained information regarding child protection processes within foster care. These procedures required to be read in conjunction with the wider Child Protection Procedures in place within The North Ayrshire Council at the time. From 1996 onwards, these were the Child Abuse Procedures laid down by Strathclyde Regional Council which had been adapted for use in The North Ayrshire Council. Said procedures were reviewed and updated in 2011 in accordance with National Child Protection Guidance and subsequently updated in 2014. Taken in combination, these



documents outlined the procedures pertaining to the protection of children in foster care and directed the management and practice of child protection in The North Ayrshire Council during the relevant period.

Information relating to ICR/SCR process was recorded within the National Interim Guidance for Significant Case Reviews (2007) prepared by the Scottish Executive.

All documents were available in electronic or hard copy.

**d) What did the policies and/or procedures set out on the following?**

**i. Approach to/process of internal investigations**

If the investigation related to abuse or alleged abuse of a child in foster care, this was investigated under the Child Protection Process, outlined within The North Ayrshire Council's Child Protection Procedures. Full details of this can be found in Section 4.7 of this response.

If it was established that significant harm had occurred or may have been caused to a child in foster care, then a Child Protection Investigation was initiated under The North Ayrshire Council's Child Protection Procedures.

Foster carers who had been subject to a Child Protection Investigation were informed about the outcome of this at the completion of that investigation. Where it was assessed that significant harm was not established, but there were practice concerns or behaviours that required further exploration, the relevant Team Manager was responsible for informing foster carers (both verbally and in writing) that an internal investigation and/or a Foster Carer Review was to be convened to consider the issues/concerns raised. The purpose of this was to consider implications in relation to the foster carer's capacity to provide ongoing care and the appropriateness of the current placements.

Where an internal investigation was required, a Care Concerns Meeting was held. A comprehensive report was prepared for this meeting which presented key findings (including full consideration of the outcome of any Child Protection Investigation) and circumstances that may have contributed to any allegation or complaint being made. Implications for the foster carer's suitability to continue as a foster carer and training or support needs required to be highlighted. The implications of the allegation/concern for each individual child who was placed in the foster carer's home (or may be returning there on completion of the review process) was also explored.

The purpose of the Care Concern' Meeting was additionally to find out whether change was needed to any aspects of the foster care practice, current placements or category of registration. In some situations, the process resulted in a recommendation to the Fostering Panel that a foster carer's approval to foster should be terminated. However, in many instances, the Care Concerns' Meeting operated to identify ways of

supporting the carer to continue their fostering career. If there was a recommendation for termination of approval by the Fostering Panel, this required to be endorsed by the Agency Decision Maker, prior to any action being taken.

Arrangements for the Care Concerns Meeting required to take the foster carer's needs into account. If the foster carer was not willing or able to cooperate (for example, because of illness) the Fostering Service were expected to take all possible steps to enable the carer to participate fully in the process. Where appropriate, this would include reconsidering who had been appointed to carry out the Care Concerns Meeting and the foster carer could request that this meeting was chaired by an Independent Reviewing Officer who was not involved with the investigation.

Following a child protection investigation, where it was substantiated that there were child protection issues, the course of action would be determined based on the behaviour and assessed risk to children in placement and the likely harm to any future children. Measures would then be taken to consider an improvement plan for the foster carers, possible re-assessment or to consider the circumstances at a Fostering Panel where de-registration of the carers may be recommended.

In circumstances where the foster carer gave notice of their wish to cease fostering, the Fostering Service would continue to investigate the matter as fully as possible and this was made known to said carer. The full circumstances would be discussed at a Foster Carer Review and presented at Fostering Panel which would ultimately make the final decision regarding registration.

In addition, where any agency was of the view that an incident, or accumulation of significant concerns for a child, met the criteria for an Initial Case Review (ICR) or Significant Case Review (SCR) this could be considered by the Child Protection Committee.

## **ii. Identifying lessons/changes following internal investigations**

Child Protection Procedures outlined that on the completion of a Child Protection Investigation relative to the care of a foster child, the Fostering Service (where appropriate) should conduct an evaluation and debriefing meeting involving the carer/key members of the foster carer's family and staff involved in the investigation, in order to consider learning or improvements for the carer, staff and Fostering Service.

It was custom and practice to hold debriefing meetings after any allegation to consider lessons learned for the foster carer and/ or the Fostering Service. Similarly, where the internal investigation resulted in a placement disruption, a Disruption Meeting was held which was formally minuted and considered the circumstances resulting in the disruption and lessons to be learned.



**iii. Implementation of lessons/changes following internal investigations**

In line with practice developments in child protection, the Fostering Service implemented systems to better record chronologies of significant events and/or internal investigations. The Fostering Service implemented significant events observations on its internal 'Carefirst' system in 2011 and recorded all complaints and allegations against foster carers in review paperwork from 2013 onwards. All complaints/allegations were documented within Foster Carer Review paperwork and a chronology of these were considered at annual Foster Carer Reviews and at Fostering Panel. These Foster Carer Reviews were chaired by an Independent Reviewing Officer and introduced an additional level of scrutiny into foster care practice and the Fostering Service's management of complaints and allegations. Regular case file audits were also carried out in relation to quality assurance.

Within The North Ayrshire Council, there has been no internal ICR/SCR processes relating to the abuse or alleged abuse of children in foster care from which learning could be gathered and/or implemented.

**iv. Compliance**

Within the procedures in place during this timeframe there was no specific reference to compliance.

**v. Response (to child and abuser)**

The North Ayrshire Council Fostering Procedures set out clear processes regarding response expectations to complaints of this nature, including to the child and foster carer. This has been fully documented in Section 4.7 (d)(i)(vii).

**vi. Response to complaints (including response by local authority)**

The Child Protection Procedures stipulated that foster carers, and any members of their family named in the allegation/concern, should be informed personally and in writing when the investigation was concluded. Reasons for this decision and what further steps would follow were also to be explained. It was suggested that this information should be conveyed within three working days of the relevant decisions having been taken.

Foster carers were also to be offered an opportunity to meet with the Fostering Team Manager, in order to clarify the implications of these decisions for them. Foster carers about whom a concern was raised were to have access to information and advice from an independent source, including legal advice.

**vii. External reporting following internal investigations**

As per The North Ayrshire Council's procedures, internal investigations relating to all allegations or complaints of abuse regarding a child in foster care were subject to statutory reporting to the relevant statutory body in place over the relevant time frame.

In addition, any internal investigations that related to a potential crime were referred to the police as detailed in subsequent Child Protection Procedures.

**e) Who compiled the policies and/or procedures?**

From 1996 onwards, The North Ayrshire Council Fostering Service adhered to the policy and procedures laid out within the Strathclyde Regional Council Fostering Guidelines, implemented 1985, which were adapted for The North Ayrshire Council. From 2007 onwards, when The North Ayrshire Council reviewed the Fostering Procedures, updated guidance was provided in relation to management of complaints and allegations within foster care. All of these documents aligned to the National and Local Child Protection Procedures, in place at the time, and were compiled by relevant Senior Management within The North Ayrshire Council.

All Child Protection Procedures were superseded by The National Guidance for Child Protection in Scotland (2010), published by the Scottish Government. This document formed the basis for subsequent Child Protection Procedures within The North Ayrshire Council. They were compiled by Senior Management including the Child Protection Lead Officer and ratified by The North Ayrshire Council Child Protection Committee.

**f) When were the policies and/or procedures put in place?**

Please refer to Section 4.8 (i)(e) above.

**g) Were such policies and/or practices reviewed?**

All guidance relating to internal investigation of abuse in foster care was contained within the Fostering Procedures and Child Protection Procedures in place over the relevant time frame. The Child Protection Procedures were reviewed and updated in 2011 and 2014 in response to revised National Guidance for Child Protection in Scotland.

Please also refer to Section 4.8 (i)(e) for additional information.

**h) If so, what was the reason for review?**

The procedures in relation to internal investigations were considered as part



of the fuller review of both child protection and foster care within the local authority during the relevant period.

**i) What substantive changes, if any, were made to the policies and/or procedures overtime?**

The North Ayrshire Council Child Protection Procedures, The Fostering Procedures (as they related to child protection) and similarly the Foster Carers Handbook were updated to reflect changes in legislation, national and local guidance and policy as occurred between 1996-2014. These updated procedures ultimately provided greater detail in terms of the management of allegations for children within foster care placements.

In 2013, the Scottish Government produced a Good Practice Guide titled 'Managing allegations against foster carers and approved kinship carers'. The North Ayrshire Council incorporated this guidance into its Child Protection Procedures in 2014. This bolstered the available guidance in respect of allegations against foster carers and kinship carers.

**j) Why were changes made?**

Changes were made in line with wider developments within child protection nationally including legislative changes, guidance, recommendations of public inquiries/Significant Case Reviews and research findings. New areas of concern, such as online safety and child trafficking emerged, and much more became known about the impact of parental factors such as drug and alcohol misuse and domestic abuse on the well-being of children.

The following documents further underpinned the changes within child protection nationally and provided the catalyst for revision of procedures within The North Ayrshire Council:

- Protecting Children – A Shared Responsibility (1988)
- It's Everyone's Job to Make Sure I'm All Right (2002)
- The Children's Charter (2004)
- Framework for Standards (2005) (revised 2011)
- Getting It Right for Every Child (GIRFEC) (2006)
- National Guidance for Child Protection in Scotland (2010)
- Managing allegations against foster carers and approved kinship carers (2013).

**k) Were changes documented?**

The changes were fully incorporated into The North Ayrshire Council's updated and revised Child Protection Procedures (2011 & 2014) and disseminated accordingly.

**l) Was there an audit trail?**

Procedures were updated and retained within the appropriate Service. A primitive version control system was followed.

**Present****m) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**n) If so, please give details.**

A review of The North Ayrshire Council Fostering Procedures was initiated in 2018. In conjunction with The North Ayrshire Council Child Protection Procedures (2014) these incorporate the most up to date guidance in relation to the management of internal investigations relating to the abuse or alleged abuse of children in foster care.

Updated Pan Ayrshire Guidance in respect of the ICR/SCR protocol came into being in March 2016, strengthening the opportunity for local authorities (in particular the Fostering Service) to learn from internal investigations where children have been subject to harm. (Please refer to SD 24 and 25, Annex 5 Pan Ayrshire Summarised ICR SCR and Pan Ayrshire ICR SCR Protocol March 2016).

The current main objectives of any ICR/SCR are to:

- Establish whether there are lessons to be learned about how better to protect children and young people, and help ensure they get the help they need when they need it in the future
- Learn and improve services, as well as recognise good practice
- If and when appropriate, make recommendations for action (albeit that immediate action to improve service or professional shortcomings need not await the outcome of a formal review)
- Consider how any findings, recommended actions and learning will be implemented
- Address the requirement to be accountable, both at the level of the agency/agencies and the occupational groups involved
- Increase public confidence in public services, providing a level of assurance about how those services acted in relation to a significant case about a child
- Identify national implications (where appropriate) including good practice



To date, The North Ayrshire Council has not required to carry out any Initial or Significant Case Reviews in respect of a child in foster care.

**(ii) Practice**

**Past**

**a) Did the local authority adhere in practice to its policy/procedures in respect of internal investigations relating to the abuse or alleged abuse of children in foster care?**

There is evidence from the material reviewed for the purposes of the Inquiry, that the appropriate procedures were followed in respect of The North Ayrshire Council's internal investigation of abuse or alleged abuse of children in foster care.

Care Concerns Meetings (which were colloquially referred to as Professionals Meetings) took place when child protection concerns were raised for children in foster care. There is also evidence that internal investigations in relation to foster care practice were, at times, carried out by a Senior Manager/Head of Service of Children and Families. This occurred when, for example, cumulative concerns in relation to a foster carer's practice were apparent or children in foster care were considered, *prima facie*, to have been subject to significant harm in foster care.

Both approaches took place in conjunction with formal child protection processes and are seen (where required) to have resulted in recommendations to a Foster Carer Review/Fostering Panel in respect of the foster carer's registration.

**b) Did the local authority adhere in practice to its policy/procedures on the following:**

**i. Approach to/process of internal investigations**

There is evidence from the material reviewed for the purposes of the Inquiry, that the appropriate procedures were followed in respect of The North Ayrshire Council's internal investigation of alleged abuse of children in foster care.

From files read, it is apparent that the complexity of matters to be addressed and appropriate level of formality for these processes varied widely. Some situations may only have required the Fostering Services staff to carry out one or two interviews, followed by discussion of relevant issues, or others may have called for a more protracted process carried out over several weeks.

**ii. Identifying lessons/changes following internal investigations**

There is evidence that internal investigations resulted in practice development or improvement. This included amendment to Foster Carer Review paperwork to include a chronology of complaints/allegations relating to the foster carer. This enabled better scrutiny of both foster care practice and the Fostering Service's management of any complaints/allegations to be undertaken at Foster Carer Reviews by the Chairperson who was independent to the Fostering Service. The Fostering Service also updated Risk Assessment and Risk Management documentation to bolster safety planning for children in foster care. Additionally, it was recognised that joint working between the Fostering Service and Children and Families Teams required to be strengthened and over the relevant timeframe this was seen to improve in relation to managing internal investigations for children in foster care.

Within The North Ayrshire Council, there has been no systemic failure or widespread concern which has resulted in the undertaking of any ICR/SCRs during the relevant period related to the alleged or confirmed abuse of children in foster care.

**iii. Implementation of lessons/changes following internal investigations**

There is evidence that the Fostering Service implemented changes over the course of the relevant time period, including the recording of significant events/allegations within Foster Carer Review documentation.

**iv. Compliance**

There was no specific reference within the procedures to compliance or indeed lack of compliance however from files read, there is evidence that the approach to internal investigations was well established as custom and practice within The North Ayrshire Council and there was effective joint working between respective managers.

**v. Response (to child and abuser)**

From files read, there is evidence that children and alleged abusers were provided with information relating to the investigation and subsequent outcome. For the child, the response was conveyed in a manner that was age and stage appropriate, most often by the child's allocated social worker.

**vi. Response to complaints (including response by local authority)**

From files read, there is evidence that The North Ayrshire Council responded appropriately to foster carers following a complaint or allegation which resulted in an internal investigation. In this instance, a Manager



provided written feedback to the foster carer. This was followed up verbally by the supervising social worker and/or Team Manager of the Fostering Service. Where this resulted in attendance at a Foster Carer Review, or Fostering Panel, foster carers were notified of the Fostering Service's recommendation in respect of their continued registration. Foster carers received written notification of the outcome of the Fostering Panel. If deregistered, foster carers were provided with information with regards to their right of appeal.

Feedback to children and birth families would, in practice, be carried out by the child's allocated social worker or respective manager.

#### **vii. External reporting following internal investigations**

All allegations or complaints of abuse relating to a child in foster care were subject to statutory reporting to the Registering Statutory Agency in place at that time. (i.e. Care Commission, SCSWIS or Care Inspectorate) and it is evident from files reviewed that this was carried out appropriately.

There is also evidence that where internal investigations uncovered evidence of abuse/neglect or potential crime, this was reported to the police.

#### **c) How was adherence demonstrated?**

Adherence is demonstrated within reports, minutes and case files, as well as electronic records relating to internal investigations.

There is evidence of written and verbal feedback being provided to foster carers and birth parents (where this was appropriate).

There is also evidence within files reviewed that children received feedback in relation to allegations and complaints in a manner that was appropriate for their age and stage of development. It was custom and practice that this was provided by the child's allocated social worker.

Additionally, there is evidence that a written response was provided to family members who raised complaints and allegations relating to children in foster care.

#### **d) How can such adherence be demonstrated to the Inquiry?**

Adherence can be demonstrated to the Inquiry by provision of material such as procedure documents, reports, minutes and relevant files.

**e) Were relevant records kept demonstrating adherence?**

The file review and information contained within Appendix 1 – Specific Complaints demonstrates the extent to which relevant records were retained.

It is acknowledged from the file review and information contained within Appendix 1 – Specific Complaints that there are certain partial records and gaps in information relating to some allegations and complaints of abuse against children in foster care. Practice in relation to recording has evolved and the need for quality recording historically was not given the same emphasis and importance as is currently the case.

**f) Have such records been retained?**

The records have been retained in accordance with the statutory retention schedules.

**g) If policy/procedure was not adhered to in practice, why not?**

From files read, there is evidence that procedures were adhered to in practice in relation to internal investigations.

**Present****h) With reference to the present position, are the answers to any of the above questions different?**

No.

**i) If so, please give details.**

Not applicable.

**4.9 Record Keeping**

Records retention requirements relate primarily to timescales, as opposed to providing a detailed framework as to the specific documents/information that should be recorded. Service guidance will have played a role in this regard, but professional judgement as to what information to record (and where) is likely to have resulted in certain discrepancies in recording, and potentially gaps, particularly historically.



**(i) Policy****Past****a) What policies and/or procedures did the local authority have on record keeping in relation to foster care?**

The Strathclyde Regional Council Fostering Guidelines were adapted for use by The North Ayrshire Council in 1997 and these outlined the Service requirements in relation to record keeping within foster care. These were subsequently replaced by The North Ayrshire Council Fostering Procedures (2007) which reviewed and updated the procedures for record keeping and record retention in respect of approved foster carers.

In addition to service specific policies derived from The Looked After Children (Scotland) Regulations 2009, The North Ayrshire Council also had a corporate Information and Records Management Manual which set out the key records management principles that employees should adhere to. (Please see SD 26 Information Record Management Manual).

Furthermore, The North Ayrshire Council had historically worked in partnership with Scottish Councils on Archives Record Retention Schedules (now referred to as SCARRS) in an effort to ensure that record retention across all services provided by the local authority adhered to national policy.

**b) What policies and/or procedures did the local authority have on record keeping by foster carers?**

The North Ayrshire Council Foster Carer Service Agreement stipulated that foster carers should take reasonable steps to ensure that all information concerning Looked After Children was kept confidential in a locked cupboard/box. When a child moved from the placement any information pertaining to the child(ren) was to be returned to the local authority for onwards transmission with the child(ren). Please also see Section 4.9 (i)(c) below.

**c) In relation to (a) and (b) above, was there a particular policy and/or procedural aim/intention? Where were such policies and/or procedures recorded?**

The procedural aims and intention were set out in the Fostering Procedure (2007) which outlined the following:

- *To ensure that the system for making and maintaining children and young people's files has clear links to the system for carers' records*
- *To ensure that the system for making and maintaining children and young people's files is clear and simple and key information is instantly available, e.g. use of clear front sheets*

- *To ensure that the system for making and maintaining carers' files is clear and simple and key information is instantly available, e.g. use of clear front sheets*
- *To ensure confidentiality is maintained*
- *To ensure that appropriate information of visits is kept by workers in children and young people's records and in carers' records*
- *To ensure that information is kept in children and young people's records and in carers' records about all reviews, incidents, allegations, investigations, representations and complaints*
- *To ensure that appropriate information is contained in children and young people's records and that these are kept until the subjects are aged 75 or for 10 years after death if they died under 18*
- *To ensure that appropriate information is contained in carers' records and that these are kept for at least 10 years from the date of termination of approval or de-registration, or until carers' death, whichever is earlier*
- *To ensure clear North Ayrshire Council policy on how long carers' records will be kept after the 10-year minimum from termination of approval or de-registration*
- *To ensure clear North Ayrshire Council policy on who will decide when records that have been kept for longer than required may be destroyed (Source: The North Ayrshire Council Fostering Procedures, 2007)*

The Looked After Children (Scotland) Regulations 2009 amended the retention period for foster carers records to 25 years and for children to 75 years. This was enacted in practice within The North Ayrshire Council in terms of their record retention policy

**d) What did the policies and/or procedures set out in relation to record keeping on the following:**

- i.** Children in foster care
- ii.** Foster carers
- iii.** Visits to children and foster carers
- iv.** Complaints
- v.** Investigations (both internal and external)
- vi.** Discipline
- vii.** Responding to requests from former children in foster care for information/records
- viii.** Other issues relevant to foster care

The Fostering Procedure (2007) stipulated the record keeping requirements pertaining to children in foster care and foster carers. This included the



requirement to record visits carried out to children and foster carers as well as the requirement to maintain records relating to complaints, disciplinary action, investigations and other issues relating to foster care. Specifically, this was “to ensure that information was kept in children and young people’s records and in carers’ records about all reviews, incidents, allegations, investigations, representations and complaints”.

(Source: The North Ayrshire Fostering Procedures (2007)).

In relation to record keeping, the Foster Carer Service Agreement stipulated the following responsibilities:

*Recording of supervision: The Supervising Social Worker will have responsibility to ensure that the record of supervision is typed up and the original kept within the file.*

*Storage of supervision: The original will be kept in a locked file within the Family Placement office. It is the foster carer’s responsibility to ensure that their copy is kept in the lockable device provided by Social Services.*

*Purpose for which supervision record may be used: The record is a reminder of previous decisions and agreements. Auditors, Inspectors and Line Managers can also access this if required.*

*The foster carer/s shall keep records in relation to the child placed with them in accordance with Fostering Service’s recording policy. This will form part of the quality assurance system to ensure that the Service meets the terms and conditions of the Agreement. The records will be made available to the child’s Social Worker and the Family Placement Supervisor and will be used to inform the Looked After Review, and where appropriate the Foster Home Review.*

(Source: The North Ayrshire Council Foster Carer Service Agreement, 2011)

In addition to the specific requirements for the Fostering Service, The North Ayrshire Council’s Records Retention Schedule also set out how long records required to be held in accordance with legislative requirements and local business practice. An official corporate schedule was created in 2010. This included entries on fostering records retention.

In relation to responding to requests from former children in foster care for information/records, these were managed in accordance with the requirements of the Data Protection Act 1998 and The North Ayrshire Council Records Management Plan approved in terms of the Public Records (Scotland) Act 2011.

**(e) Who compiled the policies and/or procedures?**

Records Management Policies were written by the Information Governance Manager/Records Manager responsible for corporate records management from time to time. The Record Management Policies were agreed and ratified by The North Ayrshire Council Head of Service Group.

**f) When were the policies and/or procedures put in place?**

The Corporate Records Management Policy has been in place since 2010. The updated Fostering Procedures were implemented in 2007. In consideration of the amendments to retention periods stipulated within the Looked After Children (Scotland) Regulations 2009, The North Ayrshire Council updated its retention schedules within the Fostering Procedures around this time.

**g) Do such policies and/or procedures remain in place?**

The Corporate Records Management Policy is still in place and is subject to periodic review (or as and when any legislative changes trigger a review). The Fostering Procedures were reviewed and updated in 2018 and reflect the current statutory requirements in terms of record keeping and retention.

**h) Were such policies and/or practices reviewed?**

As previously noted, these were reviewed in accordance with developments in national policy and practice or changes in legislation and amended accordingly.

**i) If so, what was the reason for review?**

The main reason for review of said policies was changes to legislation or introduction of new legislation that impacted upon the management of relevant records.

**j) What substantive changes, if any, were made to the policies and/or procedures over time?**

Please see Section 4.9 generally.

**k) Why were changes made?**

Please see Section 4.9 generally.

**l) Were changes documented?**

Formal version control is encouraged through Records Management Policy and best practice guidance published on the Corporate Intranet. In relation to Service procedures, a primitive version control was in place.



**m) Was there an audit trail?**

Prior to 2010, there was no corporate records management policy. Records management was therefore implemented at Service level. A primitive version control system was in place.

**Present****n) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**o) If so, please give details.**

The Fostering Procedures were updated in 2018, to reflect national and legislative developments and changes within the Fostering Service.

The following extract from The North Ayrshire Council Fostering Procedures (2018) outlines the updated requirements, guidance and expectations of foster carers and the Fostering Service in relation to record keeping and record retention:

The Looked After Children (Scotland) Regulations 2009, requires the local authority to retain confidential files for all approved foster carers. This file holds details of their approval, amendments to approval and termination of approval. It also contains a record of each placement with the foster carer. Records for approved foster carers must be retained for at least 25 years from the date on which the approval was terminated or until the carer's death, if earlier. The local authority must ensure that the information contained is treated as confidential and can be accessed only by court order or as provided for under legislation.

The Data Protection Acts 1998 & 2018 and Access to Medical Reports Act 1988 regulate access to files kept by local authorities. Third party information (e.g. a personal reference) cannot be shared without the consent of the provider of that information.

Record keeping by foster carers and all involved in the care of a Looked After Child has a number of important purposes.

The following extracts were taken from The Foster Carers Handbook (2018) which outline these purposes:

- *Maintains history for the child - a 'coherent narrative'*
- *Provides continuity for the child when Social Workers unavailable or change.*
- *Provides an opportunity to reflect on the placement and learn from mistakes and good ideas*

- *Highlights a carer's training and development needs*
- *Underlines issues for the child*
- *Saves time and energy by providing a future reference for carers and staff*
- *Allows analysis of patterns of behaviour and to spot improvements and problems early on*

*The following are the key issues and events carers are expected to record:*

- *Brief day-to-day record*
- *Improvements and achievements of the child e.g. learned to swim, ride a bike*
- *Any changes or concerns in behaviour or mood – including details of actual behaviour observed, what was happening before it started and your or other people's responses*
- *Dates and times child is away from your home – friends, away with birth family, periods of absconding/missing*
- *Specific incidents, events or changes in circumstances of family members*
- *Disagreements or complaints concerning any birth family members and how you dealt with them*
- *Accidents or injuries (even if slight) to the child*
- *Any incident of aggression – events leading up to and outcome*
- *Incidents of alcohol misuse/drug taking*
- *Non-attendance at school*
- *Attendance at GP outwith routine medical appointments and outcome*
- *Attendance at A&E, Out of Hours GP and outcome*
- *Admissions to hospital*
- *Significant health issues including UTI's or injuries or concerns relating to genital area*
- *Injuries and bruising*
- *Any disclosure by a child/young person*
- *Incidents of self-harm*
- *New visitors to the family home*
- *Dates of meetings, attendance and decisions (sometimes these will be part of minutes sent out to you)*
- *Any medical, dental and optician appointments and treatments/decisions from these – you need to inform the child's Social Worker about statutory medical appointments and dental checks as s/he has to record this information on the CareFirst electronic record of the looked after child*
- *Contacts with school, Social Worker, birth family*
- *Contact visits, child's responses or before and after*
- *Requests for help or assistance*
- *Times when alternative care have been given, e.g. babysitters, with detail of who they were and what they did*
- *Details of any damage or theft by the foster child*



- *Involvement with police – reasons and outcome*

*This list is not exhaustive and it is best that carers err on the side of caution and record and report anything they are unsure of.*

*The Fostering Network advises that 5 to 10 minutes per child a day should be all the time you need to spend on recording.*

*You should record accidents and incidents in a separate book, which your Supervising Social Worker on their regular home visit will ask to see.*

*Over time your recording should reveal trends and patterns in the child's behaviour and development. Your recording may well underline the improvements and progress that has occurred and enhance your satisfaction in a job well done.*

*The strictest confidentiality of your recording should be maintained and diaries/notebooks and other documents you record in should be kept in a secure place such as a locked cabinet.*

*Foster carers may also be asked to maintain a communication diary with birth parents. This can be very helpful in keeping parents involved in their child's day to day care and facilitating links with birth parents which benefit the child. Where this is considered useful to a child's plan the foster carers supervising worker will discuss this with the carer in more detail.*

*Foster carers require to advise the child's Social Worker and make their Supervising Social Worker aware of the key events being recorded. Daily recordings are required for the first week. After the first week if the child begins to settle, this can move to weekly recordings as appropriate. Where a child is in a long-term placement and settled, in agreement with the Fostering Service this could move to monthly submissions.*

*Foster carers are advised to use phone calls for urgent exchanges of information. If carers are sending information by email it is suggested that the child's name is not used and replaced with initials in order to keep their identity confidential. Foster carers should also avoid mentioning any other personal information that might identify the child - for example addresses, name of school/nursery they attend, age or date of birth of the child and names of parents/siblings etc.*

*Foster carers are expected to report significant changes in their own circumstances to their supervising worker. These include:*

- *Changes in relationship – separation, new partner, bereavement, divorce*
- *Health issues*
- *Planned changes of address/accommodation/living arrangements*
- *Changes in employment*
- *Criminal charges and convictions incurred by any member of the family or extended network who has contact with the children in placement*

- *Speeding & Driving offences*
- *Personal factors (e.g. relationships, financial issues) resulting in increased stress on the carers*

*This list is not exhaustive and foster carers should discuss any change in their circumstances which is impacting on the placement with their Supervising Social Worker. Advice and support will be available where possible.*

*The Fostering Service as a registered service has a statutory duty to notify The Care Inspectorate within 24 hours of any incident, that is detrimental to the health & welfare of a child using the Fostering Service. These include but are not restricted to:*

- *Absconding*
- *Any person given wrong medication and/or wrong dose*
- *Any accident resulting in injury*
- *Any unexpected attendance at GP/A&E*
- *Any incident required to be reported to the Health & Safety Executive (HSE) under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995*
- *Any incident that could be described as a 'near miss' that could have led to injury of harm to a person using the service, including any lesson learned and action taken*
- *Any incident that is considered an adult or child protection matter*
- *Death of a person using the service*

(Source: Foster Carer Handbook (2018))

## **(ii) Practice**

### **Past**

- a) Did the local authority adhere in practice to its policy/procedures in relation to record keeping?**

There is evidence from file review that The North Ayrshire Council adhered to its policies and procedures in relation to record keeping and retention.

- b) Did the local authority check adherence in practice to its policies and/or procedures in relation to record keeping by foster carers?**

There was evidence contained within The North Ayrshire Council's policy document regarding record retention that The North Ayrshire Council had historically worked in partnership with Scottish Councils on Archives Record Retention Schedules (now referred to as SCARRS) in an effort to ensure that record retention across all services provided by the local authority adhered to



national policy (see SD 16, The North Ayrshire Council Master Retention Schedule).

It was common practice for the issue of appropriate record keeping to be addressed during supervision sessions between the foster carer and supervising social worker; in addition this was necessary to ensure that foster carers adhered to the Foster Carer Service Agreement in relation to keeping any children's information confidential and in a locked cupboard/box. This also covered any data held on a carer's computer. Information that identified a child or family was not to be sent by e-mail. When a placement ended, all paperwork relating to the child's placement was required to be returned to the child's allocated social worker.

**c) Did the local authority adhere in practice/check adherence in practice to its policy/procedures in relation to record keeping on the following:**

- i. Children in foster care
- ii. Foster carers
- iii. Visits to children and foster carers
- iv. Complaints
- v. Investigations (both internal and external)
- vi. Discipline
- vii. Responding to requests from former children in foster care for information/records
- viii. Other issues relevant

There is evidence from files read that The North Ayrshire Council adhered and checked adherence to the procedures in relation to record keeping in the relevant areas.

Many children formerly in foster care make requests for their information under Data Protection legislation. In relation to Subject Access Requests (SAR), The North Ayrshire Council had a central database to record Subject Access Requests. This database detailed the date they were received, responsible person for completion and the timescale for submission.

**d) How was adherence demonstrated?**

Adherence was demonstrated from the following sources:

- Case file audits of Looked After Children files and foster carer files which were conducted by the Managers of the Service to assess quality and frequency of recording
- Foster Carer Reviews chaired by a Senior Officer who was external to the Fostering Service

- Information contained in children's files, foster care records and relevant documentation that related to Looked After Children and the business of Fostering Panels.

**e) Were relevant records kept demonstrating adherence?**

It is clear from file review that relevant records pertaining to Looked After Children and foster carers were kept which demonstrate adherence.

**f) Have such records been retained?**

The North Ayrshire Council has retained all foster carer records since its inception in 1996. Prior to this date, foster carer records were held by Strathclyde Regional Council and within Ayrshire Archives for Ayr County Council.

Post 1996, records relating to Looked After Children and foster carers have been retained by The North Ayrshire Council in line with statutory retention schedules.

**g) If policy/procedure was not adhered to in practice, why not?**

There is evidence that policy and procedures was adhered to in practice in relation to record retention.

**h) Did the local authority undertake any review or analysis of its records to establish what abuse or alleged abuse of children cared for in foster care may have taken place?**

Within the relevant time frame, prior to this present exercise, there is no evidence that The North Ayrshire Council undertook a strategic review or overall analysis of records in relation to abuse or alleged abuse of children cared for in foster care. The North Ayrshire Council has not undertaken any strategic reviews prompted by individual enquiries/subject access requests.

**i) If so, when did the reviews take place, what documentation is available, and what were the findings?**

Please see Section 4.9 (ii)(h) above.



**j) How have the outcomes of investigations been used to improve systems, learn lessons?**

Prior to this present exercise, there was no strategic or wider review, or analysis of records relating to children in foster care and/or foster carer records to establish what abuse or alleged abuse may have taken place.

**k) What changes have been made?**

Please see Section 4.9 (ii)(j) above.

**l) How are these monitored?**

Please see Section 4.9 (ii)(j) above.

**m) Did the local authority afford former children in care access to records relating to their time in foster care?**

The North Ayrshire Council had Subject Access Request Guidance which detailed the process for assisting previously Looked After Children to access their records.

**n) If so, how was that facilitated?**

Please see SD 27 (Subject Access Request Guidance). Earlier guidance was broadly similar in its terms.

**o) If not, why not?**

Not applicable.

**Present**

**p) With reference to the present position, are the answers to any of the above questions different?**

Yes.

**q) If so, please give details**

The North Ayrshire Council has updated its Subject Access Request Guidance which details the process for assisting previously Looked After Children to access their records. Please see SD 27.

As noted previously, The North Ayrshire Council Fostering Service issued an updated Foster Carer Handbook to all foster carers in 2018. The Foster Carer Handbook provided information on the necessity for maintaining full records, confidentiality, storage of confidential information and the retention periods for all foster carer records.

- 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
  - ii. Staff with responsibilities for foster care
  - iii. Foster carers
  - iv. Complaints
  - v. Investigations (both internal and external)
  - vi. Responding to requests from former children in foster care for information/records

The Fostering Service continues to maintain paper and electronic files pertaining to children in foster care, foster carers, complaints and any internal or external investigations.

Records pertaining to staff with responsibilities for foster care are held by the Human Resources Service within The North Ayrshire Council.

All Subject Access Requests are managed centrally by the Information Governance Service and details including date requested, completion date and responsible officer are retained electronically within a central database.



## Part D – Abuse and Response

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.

### 5. Abuse

#### 5.1. Nature

##### a) **What was the nature of abuse and/or alleged abuse of children in foster care, for example, sexual, physical abuse, emotional abuse?**

These figures are based on extensive review of files and documentation for the Inquiry (see Methodology).

Of the 118 allegations of abuse by foster carers (or a family member of the foster carer) identified (see response to Section 5.9 below), the nature of the abuse alleged was as follows:

Physical abuse - 80

Emotional abuse - 20

Sexual abuse - 17

Uncategorised - 1

In addition, there are 5 complaints of alleged sexual abuse of children carried out by other children in foster care (see response to Section 5.9 below).

#### 5.2. Extent

##### a) **What is the local authority's assessment of the scale and extent of abuse of children in foster care?**

For the vast majority of children placed in foster care by The North Ayrshire Council, abuse did not occur and there was no suggestion that it did.

There are 97 complaints of abuse by foster carers (or a family member of the foster carer) relating to alleged physical or sexual abuse that have been identified from file review; 68 relate to the period 1996-2014 and 27 to the period 1975-1996 (2 complaints cover both authority periods). 5 complaints of alleged abuse by other children within foster care have also been identified, all of which relate to the period 1996-2014. One complaint relating to the period 1975-1996 has not been categorised due to insufficient information being available however this has been included within this response for the purpose of transparency.

One foster carer registered by The North Ayrshire Council was convicted on or around 16 October 2017 of two offences (Indecent behaviour towards a girl

between 12 and 16 under Section 6 of the Criminal Law (Consolidation) (Scotland) Act 1995 and indecent assault (sexual) against a foster child in his care. The first conviction related to the period 2001 to 2005 and the second to the period 2005 to 2006. The North Ayrshire Council has no information that any foster carer engaged by Strathclyde Regional Council in the North Ayrshire area has been convicted of a criminal offence relating to abuse of a child in their care (please see response at Section 5.13).

**b) What is the basis of that assessment?**

Please see the Methodology at the outset of this response, which outlines the thorough approach The North Ayrshire Council adopted to file review to inform its assessment.

**c) How many complaints have been made in relation to alleged abuse of children in foster care?**

The North Ayrshire Council has identified 97 complaints of alleged abuse of children in foster care that meet the Inquiry's principal definition of abuse. These complaints date from 1981 to December 2014.

**d) Against how many foster carers have the complaints referred to at (c) above been made?**

The North Ayrshire Council has identified 45 foster carers against whom complaints have been made in relation to the alleged abuse of children in foster care. This relates to the time period from 1981 to December 2014.

**e) How many foster carers have been convicted of, or admitted to, abuse of children?**

There is 1 criminal conviction relating to sexual abuse of a child in foster care for which the perpetrator received a custodial sentence. Please refer to Appendix 1 – Specific Complaints: SC7.

There are 2 specific complaints where the foster carer has made an admission in relation to unacceptable actions towards a child, please refer to Appendix 1 – Specific Complaints: SC28 and SC73.

There are 9 other specific complaints where criminal charges were brought against foster carers but did not result in conviction. This involved 6 foster carers. Please refer to Appendix 1 – Specific Complaints: SC1, SC34, SC43, SC62, SC75, SC90, SC91, SC92, SC98.

Out of these 9 specific complaints, 7 relate to the period 1996-2014 and 2 to the period 1975-1996.



**f) How many foster carers have been found by the local authority to have abused children?**

The North Ayrshire Council did not routinely make factual 'findings' as to whether abuse (as defined by the Inquiry) had occurred. It was the role of the local authority to investigate complaints and to take appropriate action in order to safeguard children in foster care. Behaviour by foster carers may have been judged to be inappropriate by the local authority, but that did not constitute a finding of abuse. Of the allegations of abuse identified at Section 5.9, 25 allegations of physical or sexual abuse have been identified where the behaviour of the foster carer appears to have been judged unacceptable. 19 of those complaints relate to the period 1996-2014 and 6 to the period 1975-1996 (therefore predating The North Ayrshire Council's inception).

**g) Against how many family members of foster carers have complaints been made in relation to alleged abuse of children?**

There are 6 specific complaints that relate to alleged abuse by family members of the foster carers. 2 complaints relate to the same individual who was related to a foster carer registered by an external agency, 2 relate to carers who were registered by Strathclyde Regional Council and 2 relate to carers who were registered with The North Ayrshire Council.

Please refer to Appendix 1 – Specific Complaints: SC35, SC75, SC83, SC86, SC99, SC101.

**h) How many family members of foster carers have been convicted of, or admitted to abuse of children?**

There are no family members of foster carers who have been convicted of or admitted to abuse of children.

There is 1 specific complaint where two family members were charged with rape and using lewd and libidinous practice towards foster children previously in placement. Those charges were found 'not proven' at the High Court in 2007. Please refer to Appendix 1- Specific Complaints: SC75.

**i) How many family members of foster carers have been found by the local authority to have abused children?**

The local authority did not routinely make factual 'findings' as to whether abuse (as defined by the Inquiry) had occurred. It was the role of the local authority to investigate complaints and to take appropriate action in order to safeguard children in foster care.

There is 1 specific complaint relating to family members of foster carers which resulted in criminal proceedings but not in conviction.

Please refer to Appendix 1 – Specific Complaints: SC75.

- j) Against how many other children placed in foster care in the same placement have complaints been made in relation to the alleged abuse of children?**

5 such allegations of abuse by other child(ren) in foster care have been identified that are considered to meet the Inquiry's principal definition of abuse.

- k) How many other children placed in foster care in the same placement have been convicted of, or admitted to abuse of children?**

The North Ayrshire Council hold no record of any child being convicted of abuse of another child in foster care.

There is 1 case of alleged abuse where there was an admission of inappropriate behaviour by the child involved.

Please see Appendix 2 – Specific Complaints (Children).

- l) How many other children placed in foster care in the same placement have been found by the local authority to have abused children?**

The local authority did not routinely make factual 'findings' as to whether abuse (as defined by the Inquiry) had occurred. It was the role of the local authority to investigate complaints and to take appropriate action in order to safeguard children in foster care.

### **5.3. Timing of Disclosure/Complaint**

- a) When were disclosures and complaints of abuse and/or alleged abuse of children in foster care made to the local authority?**

Information relating to timing of disclosures and complaints of abuse and/or alleged abuse of children in foster care is recorded within Appendices 1 and 2. All allegations contained within said Appendices are categorised as either historic or current. 'Historic' is an allegation or complaint made over six months after the child moved from the foster placement and 'current' relates to complaints made while the child was in placement or within six months of leaving the placement.

Of the 97 specific complaints of abuse, 26 were 'historic' and 71 were 'current'.



**b) To what extent were complaints and disclosures made while the abuse or alleged abuse was on-going or recent?**

As above, 71 of the 97 complaints or disclosures were made when the alleged abuse was on-going or recent.

**c) To what extent were/are complaints made many years after the alleged abuse i.e. about non-recent abuse?**

26 of the 97 complaints or disclosures of abuse or alleged abuse relate to non-recent or historical abuse (as defined at Section 5.3 (a) above).

**d) Are there any patterns of note in terms of the timing/disclosure of abuse and/or alleged abuse?**

Analysis of Appendix 1 – Specific Complaints indicates that a significantly higher number of allegations of abuse were made while children were in the relevant foster placement or within six months of leaving placement.

In relation to allegations made by children more than six months after they left the relevant placement, most of the allegations of abuse were made within the first few years following their placement, with some made several years later. Research would indicate that children often make disclosures in relation to previous abuse and trauma when they feel safe and have developed relationships with trusted adults. Some children/young people repeated the disclosure as they reached adolescence and/or adulthood, and this resulted in criminal proceedings being undertaken in relation to historic allegations of abuse.

Where allegations were made by a child after they left placement and the foster carer continued in that role, child protection procedures were followed and risk evaluated in respect of any child in placement with the foster carer at the relevant time. Where appropriate, an evaluation of risk in respect of the carer's birth children was also undertaken.

#### **5.4. External Inspections**

**a) What external inspections have been concluded relating to children in foster care which considered issues relating to abuse and/alleged abuse of children.**

The North Ayrshire Council Fostering Service had no external inspections specific to abuse or alleged abuse of any North Ayrshire child in foster care between 1996 and December 2014.

Following the establishment of The North Ayrshire Council in 1996, the local authority established an internal Registration & Inspection Team (from 1999). This team was responsible for inspecting the Fostering Service up until the

formation of the Care Commission in 2002. The Care Commission was set up as an independent regulator under the Regulation of Care (Scotland) Act 2001 to improve care services in Scotland. From 2002, there was a duty to notify the relevant external regulator of any allegations of abuse and they monitored and assessed the local authority's process for investigating any such abuse. This function transferred to the Care Inspectorate in 2011. The examination of how complaints and allegations of abuse were carried out by the Fostering Service formed part of all inspections conducted by those teams and agencies from time to time and the local authority's actions were assessed in accordance with regulatory standards.

The Care Commission/Inspectorate completed seven inspections of The North Ayrshire Council Fostering Service between 2006 and 2019. Whilst they were not responsible for carrying out investigation into the alleged abuse of any specific child, they did inspect The North Ayrshire Council's Child Protection processes for completing such investigation of abuse and commented as follows:

*"Complaints were robustly investigated, and a detailed record kept of the scope of the investigation and findings. We found the service used this as an opportunity to reflect on practice and had amended and introduced policies and procedures accordingly".*

*The Fostering Service maintained good contact with the Care Inspectorate and provides notifications as appropriate. All Foster Carer de-registrations were fully discussed at the fostering panel and a record kept of the decisions."*

(Source: Care Inspectorate Report dated 13<sup>th</sup> March 2015, no inspector identified).

Since 2006, The North Ayrshire Council Fostering Service have been graded by the Care Commission/Inspectorate as providing a 'Good' or 'Very Good' service in all aspects of assessment. Such inspections will have included an assessment as to the local authority's procedures for and management of allegations of abuse in relation to children in foster care.

**b) Who conducted the inspection?**

From 2006, external inspections of the Fostering Service were conducted by the Care Commission. In 2011, the Care Inspectorate became the national regulatory body responsible for inspection of the local authority's Fostering Service. The national purpose of the regulatory body was to inspect standards of care in Scotland.

**c) Why was the inspection conducted?**

Inspections have been conducted to ensure that the Fostering Service operates in compliance with legislative, policy and guidance requirements which govern Fostering Services in Scotland, such as The Looked After Children (Scotland) Regulations 2009 and The National Care Standards (2005 & 2011). Inspections



carried out on the Fostering Service were in line with their regulatory framework for inspection and not a result of any specific issues locally relating to abuse or alleged abuse of children.

**d) When was the inspection conducted?**

Regulatory inspections of The North Ayrshire Fostering Service were conducted on the following dates:

6<sup>th</sup> June 2006  
22<sup>nd</sup> October 2007  
24<sup>th</sup> March 2009  
17<sup>th</sup> December 2009  
17<sup>th</sup> March 2011  
29<sup>th</sup> November 2012  
21<sup>st</sup> January 2013.

**e) What was the outcome of the inspection in respect of any issues relating to abuse of children in foster care?**

Inspections were in relation to review of the continued registration of the Fostering Service as per regulatory requirements and not in response to any specific issues locally relating to alleged abuse of children in foster care or otherwise with the local Fostering Service. That notwithstanding, the scope of inspections included consideration and evaluation of the procedures and practice in relation to child protection. Inspectors evaluated whether required standards in relation to the handling of complaints and allegations were upheld by the Fostering Service; specifically, that these were appropriately addressed and children in foster care appropriately safeguarded.

Please see information contained within Section 5.5 (a).

**f) What was the local authority's response to the inspection and its outcome?**

The Fostering Service took cognisance of the requirements and recommendations from the inspection reports and, where necessary, implemented changes to practice and updated policies and procedures in line with the requirements of the inspection and to comply with the National Care Standards.

**g) Were recommendations made following the inspection?**

Yes, as outlined in Section 5.5 (h) below.

The Care Inspectorate made recommendations following inspections of the Fostering Service, these are fully detailed in the inspection reports which are

cited as documents that can be provided to the Inquiry on request (listed at SD 6-15).

**h) If so, what were the recommendations and were they implemented?**

The North Ayrshire Council has not experienced any external inspections solely relating to abuse or alleged abuse of children in foster care. In relation to the statutory inspections, there have been no requirements or recommendations made specifically in respect of abuse or alleged abuse of children in foster care.

**i) If recommendations were not implemented, why not?**

Not Applicable.

**5.5. External Investigations**

**a) What external investigations have been conducted relating to children in foster care which have considered issues relating to abuse and/or alleged abuse of children.**

29 allegations have been identified that resulted in external investigation by the police relating to specific allegations of abuse of children in foster care. See response to Section 5.9 below.

**b) Who conducted the investigation?**

Please refer to Appendix 1 – Specific Complaints for full details relating to external investigations conducted by police relating to children in foster care which have considered issues relating to abuse and/or alleged abuse of children: SC1, SC2, SC3, SC7, SC14, SC31, SC32, SC34, SC36, SC40, SC43, SC46, SC55, SC60, SC61, SC62, SC75, SC79, SC80, SC81, SC83, SC90, SC91, SC92, SC98, SC99, SC108, SC115, SC117.

**c) Why was the investigation conducted?**

Please refer to Section 5.5 (b) above.

**d) When was the investigation conducted?**

Please refer to Section 5.5 (b) above.



**e) What was the outcome of the investigation in respect of any issues relating to abuse or alleged abuse of children in foster care?**

Please refer to Section 5.5 (b) above. Certain police investigations led to criminal charges.

**f) What was the local authority's response to the investigation and its outcome?**

Please refer to Section 5.5 (b) above.

**g) Were recommendations made following the investigation?**

It was not for the police to make recommendation however information from the outcome of external investigations of complaint/allegations of abuse of children in foster care was considered by the local authority on a case by case basis and recommendations made as a result. This included:

- Care Concerns Meeting (colloquially known as Professionals Meeting)
- Improvement Plan where additional training was identified and additional monitoring and support to the foster carer and children in placement was provided by the child's allocated social worker and the Fostering Service.
- Children moved from the placement on a permanent basis
- Foster Home Review/Fostering Panel which considered reassessment of the foster carer or deregistration
- Where resignation/retiral was accepted by the local authority in respect of any carer where there were concerns regarding child care practice, this was generally noted in the foster carers' records. This was subsequently shared with any other agency who made enquiries about the said carer.

On one occasion, a referral was made to the Scottish Executive for consideration of disqualification of an individual from working with children under the Protection of Children (Scotland) Act 2003.

**h) If so, what were the recommendations and were they implemented?**

Please refer to Section 5.5 (g) above. Recommendations were specific to the outcome of any investigation and the action deemed appropriate (in line with applicable procedures) to safeguard children in foster care.

**i) If recommendations were not implemented, why not?**

Not applicable.

**5.6. Response to External Inspections/Investigations**

**a) What was the local authority's procedure/process for dealing with external inspections and/or investigations relating to abuse, and/or alleged abuse of children in foster care?**

There have been no external inspections of The North Ayrshire Council or its Fostering Service specifically relating to abuse and/or alleged abuse of children in foster care. However, The North Ayrshire Council's compliance with procedures in relation to child protection and management of allegations and/or complaints relating to children in foster care was a core consideration of inspections conducted by the Care Commission/Care Inspectorate during the relevant timeframe. The North Ayrshire Council Fostering Service adhered to the regulations and inspection process laid out for Fostering Services in Scotland.

The Fostering Service was also responsible for advising the relevant statutory body of any allegations or incidents of abuse within foster care.

In respect of external investigations relating to abuse and/or alleged abuse of children in foster care, the Fostering Service adhered to child protection procedures in place over the time frame. Where it was considered that abuse may have occurred, consultation was carried out with police and an external investigation conducted jointly by police and social work took place (as appropriate).

**b) What was the local authority's procedure/process for responding to the outcomes of such external inspections and/or investigations?**

In respect of external investigations involving the police, these were dealt with on a case to case basis with a joint approach being undertaken between police and social work. Where it was deemed on initial assessment by social work staff that abuse may have occurred, the Fostering Service took immediate action to safeguard the child, with the child often being moved to an alternative placement. Assessment was also undertaken to consider risk to any other foster child and/or birth child within the placement and appropriate safeguarding measures put in place.

If judged to be appropriate, the Fostering Service, subsequently took action to review the foster carers registration at Foster Carer Review or Fostering Panel. Where it was considered by the local authority that concerns were such that action required to be taken to safeguard children in the future this resulted in de-registration of the foster carer. Following the outcome of the investigation, should resignation or retiral be requested by foster carers against whom allegations of abuse had been made, the circumstances were considered by the Fostering



Panel. Where retiral/ resignation was accepted, concerns were generally recorded in respect of the foster carers practice and this information was provided to any other fostering agency approached by said foster carers in the future.

**c) What was the local authority's procedure/process for implementing recommendations which followed from such external inspections and/or investigations?**

The North Ayrshire Council have not experienced any external inspections solely relating to abuse or alleged abuse of children in foster care. The information below relates to recommendations from general inspections of the Fostering Service and they were not specific to abuse or alleged abuse of children in foster care.

The North Ayrshire Council Fostering Service took the appropriate actions and implemented changes following inspection reports and recommendations.

In respect of external investigations involving the police, these were dealt with on a case to case basis with a joint approach being undertaken between police and social work. Where it was deemed on initial assessment by Social Work staff that abuse may have occurred, the Fostering Service took immediate action to safeguard the child, with the child often being moved to an alternative placement. Assessment was also undertaken to consider risk to any other foster child and/or birth child within the placement and appropriate safeguarding measures put in place.

If judged to be appropriate, the Fostering Service subsequently took action to review the foster carers registration at Foster Carer Review or Fostering Panel. Where it was considered by the local authority that concerns were such that action required to be taken to safeguard children in the future this resulted in de-registration of the foster carer. Following the outcome of the investigation, should resignation or retiral be requested by foster carers against whom allegations of abuse had been made, the full circumstances were considered by the Fostering Panel. Where retiral/ resignation was accepted, concerns were generally recorded in respect of the foster carers practice and this information was provided to any other fostering agency approached by the said foster carers in the future.

## **5.7. Impact**

**a) What is known about the impact of abuse on those children in foster care who were abused, or alleged to have been abused?**

See elsewhere in this response The North Ayrshire Council's position generally on findings of abuse in foster care locally.

It has not been possible to provide a full analysis of the impact of alleged abuse on those children in foster care due to limited information contained within children's files that references the impact on the child related to experiences in foster care. The following general analysis is provided by social work professionals involved in this response on behalf of The North Ayrshire Council, based on their existing knowledge and expertise, relevant academic research and the significant file and documentation review undertaken to inform this response (see Methodology). It does not relate to the impact of abuse on any specific child or children, or to the position in The North Ayrshire Council or its predecessor authorities.

The impact on children in foster care generally who were abused, or alleged to have been abused, can at times be difficult to attribute and quantify, particularly given that the likelihood is that children in foster care have been exposed to abuse/trauma/adversity prior to becoming accommodated. There can also be a lifelong impact on children who experience disrupted attachment/separation from their parents and wider family. These effects can be far reaching, and therefore not documented in the records of their care experience, sadly occurring or reoccurring later in their lives. However, it can be assumed that any instance of abuse in foster care would likely be significantly detrimental to any child, given the knowledge and understanding of the physical, developmental and emotional impact of abuse generally.

Whilst it may be difficult to distinguish the impact of pre-placement abuse, neglect or trauma from additional trauma, it is reasonable to conclude that further exposure to any traumatic event is likely to have an increased detrimental impact. This could affect every aspect of a child's life including cognitive development, emotional development and academic attainment. It could also negatively impact on behaviour, decision-making and physical health in adulthood should appropriate interventions not have been made. The negative impact of abuse in childhood cannot be underestimated, with current research highlighting the potential life-long impact on an individual's future life choices.

It is known that children who experience abuse and trauma, particularly at the hands of 'primary caregivers', develop maladaptive attachments with all the resultant difficulty this brings. Recovery is possible but requires safety and stability, a secure network and well-formed attachments. Associated therapeutic work through play, stories and art can further support the child to develop internal coping strategies to positively manage the impact of early abuse and trauma.

The following information provides examples of academic research and theoretical models that have influenced current thinking and practice in relation to the impact of trauma and abuse on children in foster care. These have informed the analysis used by social work professionals in this response to the Inquiry.

A study completed by York University and the NSPCC in England between 2009 – 2012 gathered information from 211 local authorities on allegations of abuse in foster care, receiving 156 responses. It found that 88% of abuse that occurred was perpetrated by foster carers. In more than a third of those cases, children were found to be physically harmed, with a further 11% of those children sexually



abused. The study goes on to highlight that some physical abuse documented took the form of a "spur of the moment" smack, but there were also cases of more serious deliberate harm. In one case, a child sustained several unexplained fractures during a foster placement and showed a lack of developmental progress dating back to the time it began. Emotional abuse made up a third of cases and neglect a further 17%.

In a more generalised sense, evidence from research, including attachment theorists, has highlighted that the impact of abuse in childhood can be hugely detrimental to every area of an individual's life, and be life-long in terms of negative impact to emotional, mental and physical health. There is an increasing evidence base informed by neuroscience and the physiological and biological impact of adverse childhood experience/s. Child trauma specialists including Dr Bruce D. Perry, Dr Margot Sunderland, Dr Dan Hughes and Professor Jaak Panksepp have highlighted how early life trauma, in the form of neglect and abuse, can have a devastating impact on the individual's neurodevelopment.

Attachment theory, originated by John Bowlby and subsequently tested and expanded upon by numerous theorists, attempts to describe the dynamics of interpersonal relationships when a child's needs are met inconsistently, punitively or are neglected (e.g. Schofield and Beek, 2008). Current research in the field of neuroscience has also begun to understand the neurological responses to frightening parenting that lends academic credence to the psychological theory underpinning social work interventions.

In addition, the CDC-Kaiser Permanente Adverse Childhood Experiences (ACE) study is one of the largest investigations of childhood abuse and neglect ever undertaken. Between 1995 – 1997, 17,000 American subjects were asked to complete anonymised questionnaires, including requesting information about adverse childhood experiences. Ultimately, the study found a strong graded relationship between the breadth of exposure to abuse or household dysfunction during childhood and multiple risk factors for several leading causes of death in adults (Felitti, VJ. et al, the Adverse Childhood Experiences (ACE) Study, American Journal of Preventive Medicine, 1998).

**b) Where does the local authority's knowledge/assessment of that impact come from?**

It has not been possible to provide a full analysis of the impact of alleged abuse on children in foster care locally due to limited information contained within children's files that references the impact on the child related to experiences in foster care. The general analysis at Section 5.7 (a) above is provided by social work professionals involved in this response on behalf of The North Ayrshire Council, based on their existing knowledge and expertise, relevant academic research and the significant file and documentation review undertaken to inform this response (see Methodology). It does not relate to the impact of abuse on any specific child or children, or to the local position generally.

- c) **What is known about the impact of abuse on the families of those children in foster care who were abused, or alleged to have been abused?**

There is limited information in children's files and all other documentation reviewed to provide a full analysis or information on the impact of alleged abuse on the families of those children who were alleged to have been abused in foster care.

- d) **Where does the local authority's knowledge/assessment of that impact come from?**

Academic research informs the local authority's general position. Please see Section 5.7 (c) above.

### **5.8 Known Abusers and Alleged Abusers**

See Appendix 4 – Known Abusers and Alleged Abusers (Response).

### **5.9 Specific Complaints**

See Appendix 5 – Specific Complaints (Response).

### **5.10 Civil Actions**

See Appendix 3 – Civil Actions.

### **5.11 Criminal Injuries Compensation Awards**

- a) **Has any criminal injuries compensation been awarded in respect of abuse, or alleged abuse, of children cared for in foster care?**

The North Ayrshire Council are not aware of the extent of award of Criminal Injuries Compensation in respect of abuse, or alleged abuse, of children in foster care. Such information may best be obtained from the Criminal Injuries Compensation Authority.

- b) **If so, please provide details if known.**

Not applicable.



**5.12 Police**

See Appendix 6 – Police (details extracted from Appendix 1 – Specific Complaints).

**5.13 Crown**

The response at this section is based on review of files/information held by The North Ayrshire Council Children and Families Service.

See Appendix 7 – Crown.

## Inventory of Supporting Documents

- SD 1 – Fostering Allowance Spreadsheet
- SD 2 – Looked After Statistics
- SD 3 – Aftercare Destinations
- SD 4 – Continuing Care / After Care Policy
- SD 5 – Social Worker / Job Description
- SD 6-15 – Care Commission Reports and Care Inspectorate Reports (2006 – 2019)
- SD 16 – The North Ayrshire Council Master Retention Schedule
  
- SD 17 – Altogether Better Care, Looked After Children Procedures (2013)
  
- SD 18 - The North Ayrshire Council Fostering Procedures (2007)
  
- SD 19 – The North Ayrshire Council Child Protection Procedures, updated 2014
  
- SD 20 – Foster Carer Supervision Contract
- SD 21 – Foster Carer Service Agreement (2007)
- SD 22 – Foster Carer Service Agreement (2011)
- SD 23 – Example of Individual Placement Agreement, Scotland, Excel Framework
- SD 24 - Annex 5 Pan Ayrshire Summarised ICR SCR
- SD 25 - Pan Ayrshire ICR SCR Protocol March 2016
- SD 26 - Information and Records Management Manual
- SD 27 - Subject Access Request Guidance
- SD 28 - Foster Carer Handbook
- SD 29 - Practice Guidance – Case Recording
- SD 30 - Foster Carer Service Agreement (2003)
- SD 31 - Foster Xtra Service Agreement
- SD 32 - The Scottish Government – Managing Allegations Against Foster Carers and Approved Kinship Carers